Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat -Taqaaseem al-Badee'ah an-Naafi'ah.

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)

Discussion based upon:

1-Sh. Ibn Sa'di's original explanation
2-Our Sh. Muhammad ibn Saalih Al-'Uthaimeen's Commentary, and
3-Full explanation by our Sh. (Dr.) Sami ibn Muhammad As-Sghair (summer 1427 A.H./2006 C.E.)

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The Basic Rulings and Principles of *Fiqh* – Foundation 1

All Praise is due to Allaah, we praise Him, we seek His aid, and we seek His forgiveness. We seek refuge in Allaah from the evils of our souls and from the evils of our actions. Whomsoever Allaah guides, then there is no one to misguide him, and whomsoever Allaah leaves to go astray, then there is no one to guide him. I bear witness that none has the right to be worshipped except Allaah, alone without partners, and that Muhammad is His slave and messenger.

«O you who believe! Fear Allaah as He should be feared and die not except in a state of Islam (as Muslims) with complete submission to Allaah»
Surah Aali-Imran (3:102)

«O mankind! Be dutiful to your Lord, Who created you from a single person (Adam), and from him (Adam) He created his wife [Hawwa (Eve)], and from them both He created many men and women and fear Allaah through Whom you demand your mutual (rights), and (do not cut the relations of) the wombs (kinship). Surely, Allaah is Ever an All-Watcher over you»
Surah an-Nisa (4:1)

«O you who believe! Keep your duty to Allaah and fear Him, and speak (always) the truth. He will direct you to do righteous good deeds and will forgive you your sins. And whosoever obeys Allaah and His Messenger (ﷺ: sallallaahu ‘alayhi wa sallam) he has indeed achieved a great achievement (i.e. he will be saved from the Hell-fire and made to enter Paradise).»
Surah al-Ahzab (33:70-71)

To proceed:

Indeed, the most truthful speech is the speech of Allaah (*ta’ala*), and the best of guidance is the guidance of Muhammad (ﷺ: *sallallaahu ‘alayhi wa sallam*). The worst of affairs are the newly invented matters, and every newly invented matter is an innovation. Every innovation is a misguidance, and every misguidance is in Hellfire.

It proceeds that this book entitled, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat -Taqaaseem al-Badee'ah an-Naafi'ah*, (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations) was written by one of the greatest scholars of Islam, *ash-Shaykh, al-Allamah* ‘Abd ar-Rahman ibn Naasir as-Sa’di (*rahimahullaah*). The importance of this book stems from the nature of its content; this is because the scholars of Islam gave great importance to the study of the basic rulings and principles of *fiqh* so that they are able to encompass the *masaa’il* (various cases) and refer these cases to the basic rulings and principles in order to deduct and apply the judgment in a comprehensive, yet precise manner. In addition, the *‘ulama* (scholars) of Islam paid great attention to the matters that seem to be

similar in nature but have different rulings. This book covers the principles and basic foundations regarding the rulings as well as the classification and differentiation between cases.

Biography of Shaykh ‘Abd ar-Rahman ibn Naa’sir as-Sa’di

al-Allamah (the scholar), *al-Faqeeh* (the jurist), *al-Usooli* (the scholar of the principles of *fiqh*), *al-Mufassir* (the scholar of *tafsir*) *ash-Shaykh*, Abu ‘Abdullah, ‘Abd ar-Rahman ibn Naasir ibn ‘Abdullah ibn Naasir as-Sa’di at-Tamimi descends from the tribe of Bani Tamim. He was born in the city of Unayzah in Qaasim province in Saudi Arabia on the 12th of Muharram in the year 1307 A.H, which corresponds September 8, 1889 C.E.

Shaykh as-Sa’di’s mother died when he was four years old, and his father died when he was seven years old. As an orphan, he was raised by his step-mother (*rahimahallaah*) until he became young, at which point he lived with his elder brother, who took care of him.

Shaykh as-Sa’di drew the attention of others at an early age due to his intelligence and inclination towards *al-‘ilm* (knowledge). Shaykh as-Sa’di studied the Qur’an and memorized it at the age of 11. He then began to take knowledge from the *‘ulama* of his town as well as the scholars that passed through it. He exerted immense effort until he had a great share of knowledge from every discipline.

When the Shaykh reached 23 years of age, he sat to teach while still receiving knowledge. He spent all his time teaching and receiving knowledge. The Shaykh took knowledge from many scholars including:

1-*ash-Shaykh* Ibrahim ibn Hamid ibn Jaasir who died in Kuwait in 1338 A.H.
2- *ash-Shaykh* Muhammad ibn ‘Abd al-Kareem as-Shibal (1343 A.H.) with whom he studied *fiqh* and the Arabic language.
3- *ash-Shaykh* ‘Abdullah ibn Aa’id al-Harbi (d.1322 A.H.).
4- *ash-Shaykh* Sa’b ibn ‘Abdullah al-Tuwaijri (d.1353 A.H.)
5- *ash-Shaykh* Ali ibn Muhammad as-Sinaani (d.1353 A.H.).
6-*ash-Shaykh* Ali Naasir Abu Waadaaye (d.1361 A.H.) with whom he studied the six books of *hadith* and who gave Shaykh as-Sa’di *ijaza* (certificate) on that.
7-The Shaykh spent many years with *ash-Shaykh* Saalih ibn Uthman al-Qaadi (d.1351 A.H.) with whom he studied *tawheed*, *tafsir*, *fiqh* principles, and Arabic sciences.
8-In addition, he took from *ash-Shaykh* Muhammad ibn ash-Shaykh ‘Abd al-‘Aziz al-Maan'i. (d.1361 A.H.)
9-*ash-Shaykh* Muhammad Amin ash-Shanqeeti (d.1351 A.H.) with whom he studied *tafsir*, *hadith*, and the Arabic sciences.
10-*ash-Shaykh* Muhammad ibn ‘Abdullah ibn Saleem (d.1323 A.H.)
11- *ash-Shaykh* Ibrahim ibn Saalih al-Qahtani (1343 A.H.).

The Shaykh (*rahimahullaah*) had a high status of knowledge, particularly in *fiqh* and its principles. He busied himself and benefited a great deal from the books of *Shaykh al-Islam* ibn Taymiyyah as well as his student ibn al-Qayyim, especially in terms of *‘ilm* of *hadith*, *tafsir*, and *fiqh*. This had a great influence on the Shaykh’s knowledge.

The Shaykh had many students, from them are: *ash-Shaykh* Sulayman ibn Ibrahim al-Bassaam (d.1377 A.H.), *ash-Shaykh* Saalih ibn ‘Abdullah al-Zughaibi (d.1372 A.H.), *ash-Shaykh* ‘Abdullah ibn ‘Abd al-‘Aziz al-Mutawaa’ (1354 A.H.) as well as our Shaykh Muhammad ibn Saalih al-'Uthaimeen (d.1421 A.H.). Other students of the Shaykh were: *ash-Shaykh* ‘Abdullah ibn ‘Abd al-Aziz ibn ‘Aqeel, *ash-Shaykh* Ali ibn Hamid as-Saalihi, *ash-Shaykh* ‘Abdullah ibn ‘Abd ar-Rahman Saalih al-Bassam, *ash-Shaykh* ‘Abd al-‘Aziz ibn Muhammad as-Salman, *ash-Shaykh* Ali ibn Zamal Aslaim (d.1418 A.H.), *ash-Shaykh* Muhammad ibn Saalih al-Khuzayem (d.1394 A.H.), and *ash-Shaykh* Muhammad ibn ‘Abd al-‘Aziz al-Mutawaa’ (d.1387 A.H).

The Shaykh, throughout his life, wrote many books and authored many treatises. This includes his great *tafsir* of the Qur’an entitled, *Taysir al-Karim ar-Rahman fee Tafsir al-Qur’an*, which is composed of five volumes; he finished his work on that in 1344 A.H. Moreover, he issued many fatwa and wrote many letters and comments on various subjects. His works were known for their ease in language and understanding.

The Shaykh (*rahimahullaah*), after having spent his entire life serving *al-‘ilm*, died at the age of 69 on a Thursday in the year 1956 C.E. due to an illness that stayed with him for nearly five years. He was buried in the city of Unayzah; his funeral occurred after *duhr* in the grand mosque of that city, with numerous people attending. May Allaah’s mercy be on *ash-Shaykh* ‘Abd ar-Rahman ibn Naasir as-Sa’di.

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations ***al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat -Taqaaseem al-Badee'ah an-Naafi'ah.***

Introduction

After praising Allaah and seeking His help and forgiveness, the Shaykh began by noting that the knowledge of the principles and foundations, under which, the numerous cases fall is one of the most important and beneficial disciplines. He asserts that he has put forth the principles and foundations that are the most comprehensive in relation to the ordinances. He classified these principles into two categories, those conciliating the rulings as well as those that classify the differences between similar cases having close rulings.

Our Sh. Muhammad ibn Saalih Al-'Uthaimeen (rahimahullaah), and our Sh. Dr. Saami ibn Muhammad As-Sghair (*hafidhahullaah*) commented on the discussions of these foundations which Sh. ibn Sa'di (rahimahullaah) presented in his book. Accordingly, what is presented here is based upon all of these efforts. May Allaah accept them and make the effort presented here a benefit for my self and for all Muslims, and may He, the Most High, reward all those who worked to make the transcription of the lectures from www.understand-islam.net available.

Principle One

The first principle is entitled:

> **The Lawgiver orders only that which is a purely beneficial (i.e. no evil therein) or predominately beneficial (meaning its benefits exceeds any evil therein). The Lawgiver forbids only that which is purely evil or predominately evil (i.e. the good is negligible when compared to the evil), giving precedence to warding off the evil.**

Qur'anic Foundation for Principle One

This foundation comprises the entire *shari'ah*. Nothing is irregular when considered using this foundation. There is no differentiation, whether this foundation refers to the rights of Allaah or the rights of His slaves. Allaah (*subhannahu wa ta'ala*) said (in the translation of the meaning):

«Verily, Allaah enjoins al-'Adl (i.e. justice) and al-Ihsaan, and giving (help) to kith and kin and forbids al-Fahsha (i.e all evil deeds), and al-Munkar (i.e. all that is prohibited), and Al-Baghye (i.e. all kinds of oppression), He admonishes you, that you may take heed.» Surah an-Nahl (16:90)

From this *ayah*, it is clear that there is no justice or goodness, except that Allaah orders it. Similarly, there is no evil or *munkar* related to the rights of Allaah and no transgression nor oppression related to the rights of people, except that He forbade it. This is where this foundation is deducted from.

Also, Allaah said in the Qur'an (in the translation of the meaning):

«Say (O Muhammad ﷺ: sallallaahu 'alayhi wa sallam): My Lord has commanded justice and (said) that you should face Him only (i.e. worship none but Allaah and face the Qiblah, i.e. the Ka'bah at Makkah during prayers) in each and every place of worship, in prayers and invoke Him only making your religion sincere to Him» Surah al-'Araf (7:29)

As such, this verse comprises the basic foundations regarding the commands and reminds us of their goodness. Similarly, the following verse comprises the basis of all the prohibitions while commanding us to say away from them, stating (in the translation of the meaning):

«Say (O Muhammad ﷺ: sallallaahu 'alayhi wa sallam): "(But) the things that my Lord has indeed forbidden are al-Fawahish (great evil sins, every kind of unlawful sexual intercourse, etc.) whether committed openly or secretly, sins (of all kinds), unrighteous oppression, joining partners (in worship) with Allaah for which He has given no authority, and saying things about Allaah of which you have no knowledge."»
Surah al-'Araf (7:33)

This verse begins by describing those acts that are lesser in gravity, continuing on to those that are the highest in magnitude and forbiddance.

In addition, Allaah said the following verse (in the translation of the meaning):

«O you who believe! When you intend to offer as-Salaat (the prayer), wash your faces and your hands (forearms) up to the elbows, rub (by passing wet hands over) your heads, and (wash) your feet up to ankles. If you are in a state of Janaaba (i.e. had a sexual discharge), purify yourself (bathe your whole body). But if you are ill or on a journey or any of you comes from answering the call of nature, or you have been in contact with women (i.e. sexual intercourse) and you find no water, then perform Tayammum with clean earth and rub therewith your faces and hands. Allaah does not want to place you in difficulty, but He wants to purify you, and to complete His Favor on you that you may be thankful.» Surah al-Ma'idah (5:6)

After mentioning the command that when one wants to perform the *salaah* that he must make *wudhu* with water if it is available or otherwise clean earth, Allaah tells us that His magnificent commands, which are from His greatest favors, are not meant to be difficult but to provide good for us and to purify us.

Furthermore, contemplate His saying in Surah al-Isra (in the translation of the meaning):

«And your Lord has decreed that you worship none but Him. And that you be dutiful to your parents. If one of them or both of them attain old age in your life, say not to them a word of disrespect, nor shout at them but address them in terms of honor.» Surah al-Isra (17:23)

In the same Surah, Allaah affirmed (in the translation of the meaning):

«This is (part) of al-Hikmah (wisdom, good manners and high character, etc.) which your Lord has inspired to you» Surah al-Isra (17:39)

To fully understand this verse, we must look at the preceding verses. Allaah said (in the translation of the meaning):

«And kill not your children for fear of poverty. We provide for them and for you. Surely, the killing of them is a great sin. And come not near to the unlawful sexual intercourse. Verily, it is a Faahishah [i.e. anything that transgresses its limits (a great sin)], and an evil way (that leads one to Hell unless Allaah forgives him). And do not kill anyone which Allaah has forbidden, except for a just cause.» Surah al-Isra (17:31-33)

Allaah continued by affirming (in the translation of the meaning):

«And come not near to the orphan's property except to improve it, until he attains the age of full strength. And fulfill (every) covenant. Verily! the covenant, will be questioned about. And give full measure when you measure, and weigh with a balance that is straight. That is good (advantageous) and better in the end. And follow not (O man i.e., say not, or do not or witness not, etc.) that of which you have no knowledge (e.g. one's saying: "I have seen," while in fact he has not seen, or "I have heard," while he has not heard). Verily! The hearing, and the sight, and the heart, of each of those you will be questioned (by Allaah). And walk not on the earth with conceit and arrogance. Verily, you can neither rend nor penetrate the earth, nor can you attain a stature like the mountains in height.» Surah al-Isra (17:34-37)

Allaah then concluded with this comprehensive statement (in the translation of the meaning):

«All the bad aspects of these are hateful to your Lord.» Surah al-Isra (17:38)

We now end with the statement with which we began.

«This is (part) of al-Hikmah (wisdom, good manners and high character, etc.) which your Lord has inspired to you» Surah al-Isra (17:39)

Contemplate these verses, the commands: their utmost beauty, justice, and general goodness and benefits. And contemplate these prohibitions: the harm, evil, and mischief that can not even be enumerated. This is one of the greatest miracles of the Qur'an and of the Messenger (ﷺ: *sallallaahu 'alayhi wa sallam*).

«And the slaves of the Most Beneficent (Allaah) are those who walk on the earth in humility and sedateness, and when the foolish address them (with bad words) they reply back with mild words of gentleness. And those who spend the night before their Lord, prostrate and standing. And those who say: "Our Lord! Avert from us the torment of Hell. Verily! Its torment is ever an inseparable, permanent punishment."» Surah al-Furqan (25:63-65)

Allaah continued by stating (in the translation of the meaning):

«And those, who, when they spend, are neither extravagant nor niggardly, but hold a medium (way) between those (extremes). And those who invoke not any other ilah (god) along with Allaah, nor kill such life as Allaah has forbidden, except for just cause, nor commit illegal sexual intercourse and whoever does this shall receive the punishment. The torment will be doubled to him on the Day of Resurrection, and he will abide therein in disgrace; Except those who repent and believe, and do righteous deeds, for those, Allaah will change their sins into good deeds, and Allaah is Oft-Forgiving, Most Merciful. And whosoever repents and does righteous good deeds, then verily, he repents towards Allaah with true repentance. And those who do not witness falsehood, and if they pass by some evil play or evil talk, they pass by it with dignity. And those who, when they are reminded of the ayat (proofs, evidences, verses, lessons, signs, revelations, etc.) of their Lord, fall not deaf and blind thereat. And those who say: "Our Lord! Bestow on us from our wives and our offspring who will be the comfort of our eyes, and make us leaders for the Muttaqun" Those will be rewarded with the highest place (in Paradise) because of their patience. Therein they shall be met with greetings and the word of peace and respect.» Surah al-Furqan (25:67-75)

Also, in Surah al-Mu'minun, Allaah began the Surah with (in the translation of the meaning):

«Successful indeed are the believers.»
Surah al-Mu'minun (23:1)

Allaah then described the qualities of the believers (in the translation of the meaning):

«Those who offer their Salaat (prayers) with all solemnity and full submissiveness. And those who turn away from Al-Laghw (dirty, false, evil vain talk, falsehood, and all that Allaah has forbidden). And those who pay the Zakat. And those who guard their chastity (i.e. private parts, from illegal sexual acts) Except from their wives or (the captives and slaves) that their right hands possess, for then, they are free from blame; But whoever seeks beyond that, then those are the transgressors; Those who are faithfully true to their Amaanat (all the duties which Allaah has ordained, honesty, moral responsibility and trusts etc.) and to their covenants; And those who strictly guard their (five compulsory congregational) Salawaat (prayers) (at their fixed stated hours). These are indeed the inheritors. Who shall inherit the Firdaus (Paradise). They shall dwell therein forever.» Surah al-Mu'minun (23:2-11)

Furthermore, in Surah al-Ahzab,

«Verily, the Muslims (those who submit to Allaah in Islam) men and women, the believers men and women (who believe in Islamic Monotheism), the men and the women who are obedient (to Allaah), the men and women who are truthful (in their speech and deeds), the men and the women who are patient (in performing all the duties which Allaah has ordered and in abstaining from all that Allaah has forbidden), the men and the women who are humble (before their Lord Allaah), the men and the women who give Sadaqat (i.e. Zakat, and alms, etc.), the men and the women who observe Sawm (fast) (the obligatory fasting during the month of Ramadan, and the optional Nawafil fasting), the men and the women who guard their chastity (from illegal sexual acts) and the men and the women who remember Allaah much with their hearts and tongues (while sitting, standing, lying, etc. for more than 300 times extra over the remembrance of Allaah during the five compulsory congregational prayers) or praying extra additional Nawafil prayers of night in the last part of night, etc.) Allaah has prepared for them forgiveness and a great reward (i.e. Paradise).» Surah al-Ahzab (33:35)

We ask Allaah (*subhannahu wa ta'ala*) to make us like those in all of these *ayat* (verses) where Allaah (*subhannahu wa ta'ala*) described the best of creation. These verses are perfect in their benefits. We remember the saying of Allaah (in the translation of the meaning):

**«And who is better in judgment than Allaah
for a people who have firm Faith.»
Surah al-Ma'idah (5:50)**

With respect to the rationale behind mentioning these preceding verses, the Shaykh (*rahimahullaah*) said:

All that which is in the *shariah* from the worship, transactions, commands, and giving the due rights to its people are all details and branches for what Allaah stated in these verses.

What the *'ulama* (scholars) detailed from the benefits and the fruits of the commands and the evils of what is forbidden all falls under this foundation. This is why the scholars of *fiqh* relate the rulings to the benefits and the evils.

Examples of that which is Purely Beneficial and Purely Evil

The statement of the Shaykh that, **"The Lawgiver orders only that which is a purely beneficial (i.e. no evil therein)"** refers to the majority of *al-ahkam ash-shariyyah* (the legal commands). *Iman* and *tawheed* are purely beneficial to the heart, the soul and the body in this life and the Hereafter.

From the examples of things that are purely beneficial, it is clear that which is purely evil, namely *shirk* (ascribing partners to Allaah in worship) and *kufr* (disbelief). They are purely harmful to the heart, the soul and the body in this life and the Hereafter.

Another example of that which is purely good is justice. Similarly, an example of that which is purely evil is oppression and injustice. Likewise, magic is purely evil.

Concerning magic, Allaah stated in Surah al-Baqarah (in the translation of the meaning):

«And they learn that which harms them and profits them not. »
Surah al-Baqarah (2:102)

Examples of that which is Predominantly Beneficial and Predominantly Evil

Sidq (truthfulness) is purely beneficial; lying is the opposite (i.e. purely evil). However, there may be situations where in some forms of lying, there may be a greater benefit that exceeds the evil therein. This would be an example of predominately beneficial, meaning the benefits far exceeds the evil. A specific instance of this is lying regarding war plans and reconciliation between people; the Prophet (ﷺ: *sallallaahu 'alayhi wa sallam*) permitted this, as in the hadith of Umm al-Kulthoum bint 'Uqbah:

"He who makes peace between the people by inventing good information or saying good things, is not a liar." [Narrated by al-Bukhari, hadith no. 2692]

In a similar narration in *Saheeh Muslim*, Umm al-Kulthoum reported that the Prophet (ﷺ: *sallallaahu 'alayhi wa sallam*) said:

"A liar is not one who tries to bring reconciliation amongst people and speaks good (in order to avert dispute), or he conveys good."

Ibn Shihab said he did not hear that exemption was granted in anything what the people speak as lie but in three cases: in battle, for bringing reconciliation amongst persons and the narration of the words of the husband to his wife, and the narration of the words of a wife to her husband (in a twisted form in order to bring reconciliation between them). [Narrated by Muslim, hadith no. 6303]

In this situation, there is a greater benefit that exceeds the evil.

Examples of that which is predominately evil are gambling and drinking alcoholic beverages. Their evil far exceeds their benefit, and that is why they are forbidden. Allaah (*subhannahu wa ta'ala*) stated in Surah al-Baqarah (in the translation of meaning):

«They ask you (O Muhammad) concerning alcoholic drink and gambling. Say: "In them is a great sin, and (some) benefit for men, but the sin of them is greater than their benefit."» Surah al-Baqarah (2:219)

In certain situations, there could be greater benefit in some forms of gambling; in such cases, the *shariah* takes that into account. For example, taking wages is allowed in three things: racing camels, racing horses, and shooting arrows; these are allowed since they encourage people to prepare for *jihad*; as such, there is a greater benefit that exceeds the evil therein. The same applies to contemporary means of *jihad* like tanks, rockets, planes, etc.

The general ruling concerning carrion, blood, and pork is that they are forbidden since they are harmful. However, if regarding these matters, there arises a situation of a greater benefit, for instance staying alive, then they are allowed. Allaah said (in the translation of the meaning):

«But as for him who is forced by severe hunger, with no inclination to sin (such can eat these above-mentioned meats), then surely, Allaah is Oft-Forgiving, Most Merciful.» Surah al-Ma'idah (5:3)

Therefore, in origin, carrion is forbidden because is harmful. However, since it is allowed in cases of necessity, then the harm is removed in such situations for two reasons. The first reason is that Allaah (*subhannahu wa ta'ala*) would not allow something for His slaves if there was harm in it. In addition, the person only eats carrion when there is a real need. Imam ibn al-Qayyim (*rahimahullaah*) pointed to this matter and gave the example of the story of Suhaib when he was touched by a sore inflamed eye (a form of trachoma); Suhaib came to the Prophet (ﷺ: *sallallaahu 'alayhi wa sallam*) and found with him (ﷺ: *sallallaahu 'alayhi wa sallam*) some pieces of bread and some dates (know that the person inflicted with this kind of eye disease should not eat dates). The Prophet (ﷺ: *sallallaahu 'alayhi wa sallam*) told Suhaib to come close and eat, so he ate from the dates. The Prophet told him, "You eat dates when you have a sore, inflamed eye." Suhaib replied, "I chew the dates from the other side." To this, the Prophet (ﷺ: *sallallaahu 'alayhi wa sallam*) smiled in approval. From this, Imam ibn al-Qayyim (*rahimahullaah*) deducted the point of benefit that if the self is inclined to take that which is harmful due to the necessity, then the harm will be driven away by the intensity of his eagerness and inclination.

Application of Principle One to Modern Technologies

Imam as-Sa'di (*rahimahullaah*) was well educated and had a broad intellect that no one at his time could reach. In addition, he based much of his learning upon the teachings of *Shaykh al-Islam* ibn Taymiyyah and ibn al-Qayyim; they were also known for their comprehensive and vast knowledge. *Shaykh al-Islam* ibn Taymiyyah was not someone strictly rigid in his thoughts and so forth; he had *ijtihaadat* and conclusions that sometimes even opposed the opinions of the four imams. Shaykh as-Sa'di was greatly affected by the way of ibn Taymiyyah. He also used to read a great deal, including magazines from India, Egypt and Greater Syria. Shaykh Muhammad ibn Saalih al-'Uthaimeen (*rahimahullaah*) even mentioned to our Shaykh, Sami as-Sghair (*hafidhahullaah*) that Imam as-Sa'di told him that during his time, they were thinking about reconciling the vibrations in the air so they could come to know the words of people that travel through the air and to try to figure out these sounds; currently, they are still doing extensive research into this, and Shaykh as-Sa'di spoke about this over sixty years ago. Moreover, he was one of the first to speak about the issue of organ transplants, and he considered it to be permissible then. All of those who write about organ transplants in our time refer to his name as one great reference in this respect. Furthermore, the Shaykh was known for writing, advising and even correcting things in certain publications. He used to write the magazine, *al-Manaar* that was published years ago by the scholars of Egypt, including Shaykh Muhammad Rashid Ridah (*rahimahullaah*).

With a thorough and vast knowledge of the technological progress of his time, the Shaykh (*rahimahullaah*) notes that this foundation, regarding that which is purely beneficial/harmful and predominantly good/evil, applies to all the contemporary discoveries and innovations that are beneficial to people in their lives and in their deen; they are from the matters which Allaah and His Messenger commanded and are beloved to them and are part of the favors of Allaah on His slaves. The Shaykh (*rahimahullaah*) mentions the examples of the cables for communication and industry; he says this foundation is applicable to them as well. Some advancements may fall under that which is obligated, others recommended, and others allowable. Similarly, in our times, these invented matters of instruments and so forth are classified into three categories. Some are used only in good, and the ruling on them is clear; some are used purely in evil, and the ruling on them is also clear. Some are used for both good and evil. In origin, this third type is allowable; however, whoever uses it in evil, for them it is *haram*, and for those who use it for good, it is *halal*. Examples of this include radios, recordings, computers, networks, and even the knife; the knife can be used in goodness like sacrificinh to Allaah, and the knife can also be used in evil to harm people. However, if most people use any instrument to do evil, then we prevent it and say it is not allowed.

Conclusion

The first foundation in Imam 'Abd ar-Rahman ibn Naasir as-Sa'di's book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat -Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

> **The Lawgiver orders only that which is a purely beneficial (i.e. no evil therein) or predominately beneficial (meaning its benefits exceeds any evil therein). The Lawgiver forbids only that which is purely evil or predominately evil (i.e. the good is negligible when compared to the evil), giving precedence to warding off the evil.**

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection.

Saleh As-Saleh
1st Sha'baan 1427
25th August 2006

Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah.

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

Foundation -2

By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)

Discussion based upon:

1-Sh. Ibn Sa'di's original explanation
2-Our Sh. Muhammad ibn Saalih Al-'Uthaimeen's Commentary, and
3-Full explanation by our Sh. (Dr.) Sami ibn Muhammad As-Sghair (summer 1427 A.H./2006 C.E.)

Prepared by
Saleh As-Saleh

Transcribed by
Br. Abu Abdullaah al-Amreeki, *Jazaahullaahu Khairan*,
from live duroos in Paltalk's "Understanding Islam 1" room.
Text edited by sis Umm Ahmad al-Kanadiyyah, *Jazaahaallaahu Khairan*.

بسم الله الرحمن الرحيم

Basic Rulings and Foundations of Fiqh-2

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection. This is a continuation of the explanation of *The Basic Rulings and Principles of Fiqh – The Beneficial, Eloquent Classifications and Differentiations* by Imam ‘Abd ar-Rahman ibn Naasir as-Sa’di (*rahimahullaah*).

Foundation two is entitled:

The means take on the same rulings as their aims.

What branches from this foundation is the following:

1) Whatever is required to fulfill an obligation is itself an obligation.
2) Whatever is required to fulfill a recommendation is itself recommended
3) Whatever leads to the establishment of a *haraam* (prohibition) is itself prohibited.
4) Whatever leads to the establishment of a *makrooh* (detested act) is itself detested.
5) Whatever follows-on from acts of worship and actions takes the same rulings as they do (i.e. worship and actions).

All of these stem from the second foundation, "**The means take on the same rulings as their aims do.**" In this comprehensive foundation, the phrase, "**The means**" refers to the methods and ways taken to achieve the aim or the cause that leads to the objectives; in addition, it implies the matters upon which the aims depend as well as what it entails from the existence of something and also the rulings' conditions.

If Allaah (ﷻ) and His Messenger (ﷺ) command a matter, then it is a command concerning the matter itself and also what is required to fulfill it; this is because the One Who legislated the rulings is *al-'Aleem* (All Knowledgeable) *al-Hakeem* (All Wise) and knows rulings' requirements, conditions, and fulfillments. Similarly, forbidding something means forbidding it in essence as well as all that leads to it.

Examples:

1) Walking to the congregational prayers, circles of knowledge or to uphold the ties of kinship as well as to visit the sick and to follow the funerals are parts of their respective acts of worship.
2) From the moment the person leaves his residence for *Hajj*, *Umrah*, or *Jihaad* in the cause of Allaah, he is in a state of continuous worship since these are means to the completion of those acts.

Allaah (ﷻ : *subhannahu wa taa'alaa*) says (in the translation of the meaning):

﴾ It was not becoming of the people of Al-Madinah and the Bedouins of the neighborhood to remain behind Allaah's Messenger (Muhammad (ﷺ) when fighting in Allaah's Cause) and (it was not becoming of them) to prefer their own lives to his life. That is because they suffer neither thirst nor fatigue, nor hunger in the Cause of Allaah, nor they take any step to raise the anger of disbelievers nor inflict any injury upon an enemy but is written to their credit as a deed of righteousness. Surely, Allaah wastes not the reward of the *Muhsineen*. Nor do they spend anything (in Allaah's Cause) - small or great – nor cross a valley, but is written to their credit, that Allaah may recompense them with the best of what they used to do (i.e. Allaah will reward their good deeds according to the reward of their best deeds which they did in the most perfect manner). ﴿ Surah at-Tawbah (9:120-121)

The point of evidence in this verse is clear. Also, in the *Sunnah*, it is reported that the Prophet (ﷺ : *sallallaahu 'alayhi wa sallam*) said concerning the seeker of knowledge,

"Whoever pursues a path to seek knowledge, then Allaah will thereby make easy for him a path to Paradise"[1]

We ask Allaah (ﷻ) from His bounty.

Replete are the evidences from the authentic *Sunnah* concerning the reward of the person who walks to the congregational prayers; one example is the authentic *hadeeth* reported by Abu Hurairah who narrated that the Prophet (ﷺ) said,

"*Prayer offered in congregation is twenty-five times better than prayer offered at home or in the marketplace alone. If any one of you does wudoo' and does it perfectly, then comes to the masjid for no other purpose than to pray, then he does not take a single step but Allaah raises him in status one degree thereby and removes one sin from him, until he enters the masjid.*"[2]

Likewise, concerning verse 12 from Surah Ya-Sin (in the translation of the meaning):

﴾Verily, We give life to the dead, and We record that which they send before (them), and their traces ﴿
Surah Ya-Sin (36:12)

some maintained that the phrase, "**We record that which they send before (them), and their traces,**" refers to the recording of their footsteps and of the deeds performed to conclude the acts of obedience or disobedience; in another interpretation, others asserted that this verse discusses that which is left behind from righteous deeds after one's death, such as: beneficial knowledge, authorship, endowments, continuous charity, etc.

Therefore, the footsteps leading to the s*alaah* are something that follows-on the worship. Correspondingly, the footsteps that lead to sin fall under the same ruling as the sins themselves do; as such, these footsteps would also be sins. The command to

[1] Part of a *hadeeth* reported in *Saheeh Muslim* (English Translation No. 6518, Book 35)
[2] In the wording of al-Bukhari, vol. 1, *hadeeth* no. 621. It is also reported by Muslim.

perform the *salaah* is a command to do the *salaah* as well as to do that, without which, the *salaah* would not be complete, such as the *tahaarah* (purification), placing a *sutrah*, facing the *qiblah*, learning the rulings of *salaah*, and the rest of the *salaah*'s conditions. The same applies to the other of the acts of worship. Thus, with this insight, the branches of this foundation that were mentioned previously become clear.

Additional Branches of This Foundation

1) The '*ulama'* (scholars) said that if the time of a prescribed prayer commences upon someone who has no water available, then he should seek it in the places he hopes to find it. Likewise, it is required that he buys water or a *sutrah* in situations where he may not have them available. This is because whatever is required to fulfill an obligation is itself an obligation.

2) It is obligated for people to learn the industrial knowledge, small or great, that they need in their *deen* or *dunyah*. These skills will help reduce the people's reliance on other nations, especially the *kufar*, through increased self-sufficiency. Beneficial knowledge is of two types.
   a. The first type of knowledge is an individual obligation (*fard 'ayn*); it includes all that which is needed by the person for his *deen*, worship, and transactions, each in accordance with his own condition. This is required of every legally and morally responsible, mature, and sane individual. Example: if a person has wealth then it is binding upon him to learn the rulings of Zakaat, otherwise it is not mandatory if he does not possess wealth. Similarly with respect to the one who wants to go for Hajj or want to be an Imaam. He must learn the related rulings, otherwise the knowledge thereof is of the second type (collective duty).
   b. The second type of knowledge is a collective obligation (*fard kifaayah*); it includes all that which people need but is not required of them individually. Examples of communal obligations are: the learning of the different branches of knowledge, the *adhaan*, the lesser and greater leadership, enjoining that which is right, forbidding that which is evil, preparing the deceased for burial, the funeral prayer, carrying the body to the graveyard, the burial itself, agriculture, and irrigation. The performance of these is sought from the morally responsible collectively, not from every person individually.

3) The measures taken to earn that which is needed to establish the rights of the self, family, children, and animals fall under this principle. For instance, if a person does not have wealth and he fears his destruction, then saving the self is an obligation. Whatever is required to fulfill an obligation is itself an obligation; as such, the seeking of sustenance would be an obligation.

4) It is obligated to learn the evidences for the direction of the *qiblah*, time, as well as directions in general for those who need them.

5) The *sharee'ah* knowledge is of two types, objectives and means. The objectives are learning the Book and the *Sunnah*; the means to that is the Arabic sciences. This is because the knowledge of the Book and *Sunnah* is dependant upon knowing the Arabic sciences and cannot therefore be

completed except through that. However, if someone learns Arabic to become a writer or a poet, then this is *mubaah* (allowable) and will be neither for him nor against him, as it is independent of the *sharee'ah* knowledge.

6) Every allowable matter taken to abandon an obligation or to perform a forbidden act is itself *haraam* (forbidden). This is because in this foundation, the means take on the same ruling as there aims. That is why it is forbidden to trade or buy after the second call for *jumu'ah*; Allaah (ﷻ) states.

﴾ O you who believe (Muslims)! When the call is proclaimed for the *Salaat* (prayer) on the day of Friday (*Jumu'ah* prayer), come to the remembrance of Allaah [*Jumu'ah* religious talk (*Khutbah*) and *Salaat* (prayer)] and leave off business (and every other thing), that is better for you if you did but know!﴿ Surah al-Jumu'ah (62:9)

Similarly, it is forbidden to indulge in trade if someone fears missing the time of the *salaah* or the congregational prayers. In addition, it is not permissible to sell something to one who intends to use it in a sinful manner. For example, selling weapons to the people of *fitnah* or bandits is forbidden. Likewise, one can not sell an ingredient that is used in alcohol preparation if you know it will be used for that purpose. Moreover, deceptive practices in transactions are forbidden if they lead to *haraam*, such as the trade in *'eena* (selling a commodity to another person for a deferred price due at a certain time while then buying the same commodity from him at a lesser price).

7) Those who take wealth through illegal means will be prevented from achieving what they intend. An example of this would be the deliberate killing of person to whom a bequest has been made or an heir. Likewise, the one who divorces his wife during an illness he fears is incurable will be treated in a manner opposite to his intention; as such, she will still inherit from him since the man only divorced her in order to deprive her of the inheritance. Also, one cannot treat his wife harshly in order to take back some of the *mahr* (bridal money given by the husband to his wife at the time of marriage) by forcing her to resort to *khula'*. Allaah (ﷻ) says:

﴾ you should not treat them with harshness, that you may take away part of the *Mahr* you have given them ﴿
Surah an-Nisa (4:19)

Similarly, the husband should not send his wife to her parents' house and leave her situation suspended in order to force her to seek *khula'*. In such situations, it is not permissible for him to take any of the *mahr* since anyone who hastens something before its proper time will be prevented from achieving what he intends.

8) If someone gives a gift out of bashfulness or fear, then it is obligatory that the gift to be returned to him.

9) This foundation includes the deceptive approach used by some to make the wife permissible for her former husband who had divorced her three times.

This is forbidden, and the person who engages in this is cursed. For example, if an individual instructs someone to marry his former wife whom he had divorced three times, with the intention of marrying her later, and that person makes a contract to marry her, this is in fact adultery, even though it takes the form of a contract.

10) Allaah (ﷻ) forbade all *fawahish* (evil things and sins) as well as all the means of approaching them when it is feared that the person may fall into *haraam*. For instance, being in seclusion with women who are legally unrelated to person as well as looking at the *haraam* are both forbidden. That is why the Prophet (ﷺ) said:

"*That which is lawful is plain and that which is unlawful is plain, and between the two of them there are doubtful matters about which not many people know. Thus he who avoids doubtful matters clears himself in regard to his religion and his honor, but he who falls into doubtful matters falls into that which is unlawful, like the shepherd who pastures around a sanctuary, all but grazing therein. Truly every king has a sanctuary, and truly Allaah's sanctuary is His prohibitions.*"[3]

11) The prohibition regarding that which instigates enmity and hatred between Muslims as well as the incitement to all that which encourages friendship and cooperation from sayings and actions are branches of this principle.

12) This foundation includes what Allaah (ﷻ) said concerning trusts; He (ﷻ) affirmed (in the translation of the meaning):

﴾Verily! Allaah commands that you should render back the trusts to those, to whom they are due﴿
Surah an-Nisa (4:58)

This verse covers all types of trusts, such as what someone deposits with you, taking care of an orphan's wealth, taking care of an endowment, etc. One of the means of rendering back the trusts to their people is by preserving them and spending upon them if they are creatures with souls (e.g. animals). Likewise, the one who is entrusted must not be negligent nor do to them that which is not permissible.

The Association between the Act and the Intention

Many of the branches previously mentioned are governed by their intentions. For instance, the deceitful act done with the intention of achieving something forbidden or to abandon an obligation is *haraam*. However, if deceit is used to extract lawful, permissible rights, then this is lawful and may even be commanded, except in cases where it may be harmful to the person; this is because the slave is ordered to take his rights in open ways, but also sometimes in hidden ways. This is clear when we examine the situation of Prophet Yusuf (*'alayhis salaam*); Allaah spoke about him, saying (in the translation of the meaning):

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[3] Part of a *hadeeth* reported in *Saheeh Muslim* (English Translation No. 1599)

﴾ **So he [Yusuf (Joseph)] began (the search) in their bags before the bag of his brother. Then he brought it out of his brother's bag. Thus did We plan for Yusuf (Joseph). He could not take his brother by the law of the king (as a slave), except that Allaah willed it.** ﴿ **Surah Yusuf (12:76)**

In addition, the same applies to methods taken to protect lives or wealth. An example of this is the case of Khidr and the ship, in Surah al-Kahf, where he made a hole in the boat in order to save it from the oppressive king who would have unlawfully taken over any working vessel. **Therefore, such plots depend on their intention, good or bad.**

Exclusion of Vows

Excluded from this foundation are vows due to a specific wisdom, particular to them. Vows of obedience are obligatory to fulfill. However, the making of the vow itself is *makrooh* (detested) as it does not bring good as the Prophet (ﷺ) said; rather, vows simply extract things from the miser. Similarly, they diminish and reduce sincerity.

What Follows the Objective Takes the Same Rulings as Objective Itself

Finally, in is as much as the means taken to reach the objectives inherit the same rulings as the objective itself, what follows or completes the aims also takes the same ruling as their aims do. Accordingly, going to perform good deeds as well as returning to the place of departure are acts of worship. That is why some of the companions said:

> "I anticipate my return to my home from *salaah* as I anticipate my departure from my home for *salaah*."

Conclusion

The second foundation in Imam 'Abd ar-Rahman ibn Naasir as-Sa'di's book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat -Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

The means take on the same rulings as their aims do.

And Allaah, the Most High, Knows Best.

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection.

Saleh As-Saleh
Edited 27th Sha'baan, 1427 AH
20th Sept. 2006 C.E.

Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah.

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

Foundation -3

By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)

Discussion based upon:

1-Sh. Ibn Sa'di's original explanation
2-Our Sh. Muhammad ibn Saalih Al-'Uthaimeen's Commentary, and
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بسم الله الرحمن الرحيم

Basic Rulings and Foundations of Fiqh-3

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection. This is a continuation of the explanation of *The Basic Rulings and Principles of Fiqh – The Beneficial, Eloquent Classifications and Differentiations* by Imam 'Abd ar-Rahman ibn Naa'sir as-Sa'di (*rahimahullaah*).

Foundation three is entitled:

> **Hardship brings ease, and all the permits and dispensations of *sharee'ah* and the lessening in the degrees of rulings branch from this foundation.**

Qur'anic Evidence for this Foundation

Ease is the origin of *sharee'ah.* Allaah (ﷻ : *subhannahu wa ta'aalaa*) says (in the translation of the meaning):

﴾Allaah intends for you ease, and He does not want to make things difficult for you.﴿
Surah al-Baqarah (2:219)

In addition, He (ﷻ) affirmed in Surah al-Baqarah (in the translation of the meaning):

﴾Allaah burdens not a person beyond his scope.﴿
Surah al-Baqarah (2:286)

and Allaah (ﷻ) said in Surah at-Talaq (in the translation of the meaning):

﴾Allaah puts no burden on any person beyond what He has given him. Allaah will grant after hardship, ease. ﴿ Surah al-Talaq (65:7)

Furthermore, Allaah (ﷻ) stated (in the translation of the meaning):

﴾And strive hard in Allaah's Cause as you ought to strive (with sincerity and with all your efforts that His Name should be superior). He has chosen you (to convey His Message of Islamic Monotheism to mankind by inviting them to His religion, Islam), and has not laid upon you in religion any hardship﴿ Surah al-Hajj (22:78)

These verses and others are proofs that the origin in *sharee'ah* is ease.

Evidence from the Sunnah

The Prophet (ﷺ: *sallallaahu 'alayhi wa sallam*) said:

"Make the things easy for the people, and do not make things difficult for them; give them glad tidings, and do not repel them."[1]

Also, it is reported by al-Bukhaari from Abu Hurairah (*radiyallaahu 'anhu*) that the Prophet (ﷺ) said:

"Religion is very easy, and whoever overburdens himself in his religion will not be able to continue in that way."[2]

Types of Hardships

There are two different types of hardships. The first type is inseparable from the worship itself, such that the worship cannot be performed without experiencing it. Examples include: fasting when it is hot, the hardships faced during *jihaad*, and the hardships of *Hajj*. These are not entailed by the lessening of hardships.

The second type of hardship can be separated from the associated act of worship, allowing the person to do the act of worship without experiencing it; this type of hardship has three ranks.

1. The hardship may be so great that it becomes intolerable; this necessitates lessening its degree. For example, it is not required to take the ritual bath (*ghusl*) on exceptionally cold days; likewise, if a person is so ill that fasting may harm him, then doing so is forbidden. Similarly, one does not need to attend the congregational prayers if doing that endangers his life. All of these situations require easing of the rulings.

2. The degree of separable hardship may be slight or tolerable. Examples of such hardships would be: fasting with a slight headache and performing *wudhu* or *ghusl* on ordinary winter days. These do not necessitate any easing of the rulings.

3. A hardship's degree may be between great and slight; in such cases, the ruling is the same as that of the hardship which it most closely resembles. If it is closer to an intolerable hardship, then it will inherit that ruling; likewise, if it is closer to a tolerable hardship, then it takes that ruling.

Forms of Ease with Hardship

Allaah (ﷻ) may lessen the separable hardship's severity in many ways.

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[1] Reported in *Saheeh al-Bukhaari* (English translation no. 3038)
[2] Reported in *Saheeh al-Bukhaari* (English translation no. 39)

First, the easing of the hardship may be by dropping the obligation. For instance, the obligation to perform *Hajj* is lifted if one is unable; likewise, the sufficiently ill person does not need to attend the congregational prayers.
Second, the lessening of the hardship can be through minimizing the number obligated. An example of this is that the traveler prays a reduced number of units of prayer (rakat) in *salaah*.

Third, the lessening can be by changing the obligation to something lesser in magnitude. For example, *wudhu* and *ghusl* can be substituted with *tayammum* when appropriate; similarly, the person who is unable to stand during *salaah* may sit. Moreover, the ill person may feed poor people if he will be unable to fast.

Fourth, the easing of the hardship may be through delaying or advancing the act of worship. An example of this is the combining of the prayers; the person may do what is easiest for him (i.e. perform both prayers together during the earlier or later time).

Fifth, the hardship may be reduced by changing the form or description of the worship. The *salaah* of fear for instance, takes different forms based upon the situation (e.g. the enemy is behind the person or the enemy is in front of him).

Sixth, the unlawful can be made permissible in cases of necessity.

The Legal Decree (*ash-shar'iyyah*[3]) Lightens the Universal Predecree (*al-kawniyyah*[4])

Closely related to this foundation is the statement:

> If Allaah (ﷻ) tests and tries the person by way of a universal predecree, then He will lighten the matter upon him through a legal decree.

Examples of this are the following:

1. The *faqeer* (poor person) is tested by Allaah (ﷻ) through the predecree. However, He did not necessitate upon him *Hajj*; as such, He lightened upon the poor the universal predecree via the legal decree.

2. The ill person who cannot stand prays sitting; if he cannot pray sitting, then he prays on his side or in accordance with his condition.

3. The person who is unable to perform the obligatory fasts may make them up on other days.

Therefore, all of these matters were lightened through the legal decree (*ash-shar'iyyah*) because Allaah (ﷻ) tests the creation by the universal predecree (*al-kawniyyah*).

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[3] *Ash-shar'iyyah*: pertains to Allaah's Legislations (commands and prohibitions).
[4] *Al-kawniyyah*: pertains to all that Allaah wills to bring to exist such as life, death, illness, health, calamities, ease, and so forth.

The Rulings are Easy

All of the *sharee'ah* is based upon worshipping none but Allaah (ﷻ); in this, there is generosity in rulings and actions.

Examples:

1. The *salaah* is the mother of all acts of worship. If the time required to complete all five daily prayers was combined, it would be 75 minutes if you assumed 10 minutes for each *salaah* and 5 minutes for each *wudhu*; this time is distributed across an entire day, with most of the prayers being obligated while people are awake.

2. The amount of *zakaah* due on gold, silver, and merchandise is only one part out of forty (i.e. 2.5%). In addition, not all wealth is subject to *zakaah*.

3. Fasting is only required for one month out of twelve, with the person free to eat, drink, and enjoy his spouse as he wishes during the other months. Even during this one month out of twelve, half of it is eating, drinking and enjoyment during the night; this makes it very easy, *al-hamdulillaah.*

4. It is specifically mentioned that *Hajj* is due only from those with the ability to fulfill it, as Allaah (ﷻ) states (in the translation of the meaning):

   ﴾And Hajj (pilgrimage to Makkah) to the House (*Ka'bah*) is a duty that mankind owes to Allaah, those who can afford the expenses (for one's conveyance, provision and residence)﴿ Surah aal-Imran (3:97)

   There are hardships in *Hajj*, such as reaching Makkah and performing the rituals; however, Allaah (ﷻ) made ease therein by conditioning it on ability.

The examples mentioned previously refer to situations in origin; however, things may emerge or occur. **Examples where the origin has been eased are the following:**

1. A person in a state of either minor or major ritual impurity can make *tayammum* instead of using water if he is ill and fear his destruction. The Qur'an made this clear in *ayat at-tahaarah* where Allaah (ﷻ) says (in the translation of the meaning):

   ﴾O you who believe! When you intend to offer *as-Salaat* (the prayer), wash your faces and your hands (forearms) up to the elbows, rub (by passing wet hands over) your heads, and (wash) your feet up to ankles. If you are in a state of *Janaaba* (i.e. had a sexual discharge), purify yourself (bathe your whole body). But if you are ill or on a journey or any of you comes from answering the call of nature, or you have been in contact with women (i.e. sexual intercourse) and you find no water, then perform *Tayammum* with clean earth and rub therewith your faces and hands. Allaah does not want to place you in difficulty, but He wants to purify you, and to complete His Favor on you that you may be thankful.﴿ Surah al-Ma'idah (5:6)

As such, Allaah (ﷻ) necessitated the purification with water, but if the person is ill and the illness may be intensified or the cure delayed, then he resorts to *tayammum* (dry ablution). Likewise in the authentic *hadeeth*, it is reported that ‘Abdullah ibn ‘Amr ibn al-‘Aas was sent by the Prophet (ﷺ) on a dispatch. During his journey, he entered a state of sexual defilement on a cold night; as such, he made *tayammum* and later led his companions in prayer. To this, the Prophet (ﷺ) asked:

“Did you lead your companion in prayers while you were in a state of sexual defilement?”

He replied:

> “O Messenger of Allaah. I remembered the saying of Allaah, ‘**And do not kill yourselves. Surely, Allaah is Most Merciful to you.**’ (Surah an-Nisa 4:29)”

The Prophet (ﷺ) smiled in approval of his action.[5]

2. It is mandatory for the person to pray standing in the *fard* prayers. Regarding the person who is unable to do so, the Prophet (ﷺ) told Umran ibn Hussain (*radiyallaahu ‘anhuma’* : may Allaah be pleased with both of them):

   “Pray standing, but if you cannot, then sitting, but if you cannot, then on your side.”[6]

3. If a person’s wealth is not in his hands because he gave a loan to someone, then he is not commanded to borrow money in order to pay *zakaah*. However, he is responsible to pay the *zakaah* when the loans are repaid. Therefore, if someone gave loans to rich people who are able to pay it back, then *zakaah* on that person is due, though the *zakaah* can be deferred until the money is returned.

4. In terms of *sawm* (fasting), the issue is clear, and examples have been given for the traveler or the ill to whom Allaah (ﷻ) has given the permit to break the fast.

5. In *Hajj*, it is mandatory that the person performs it by himself if he has the necessary wealth. If someone has the money required to complete *Hajj* but is physically unable to do so as a result of an illness he anticipates he will not recover from, then he may delegate someone to do *Hajj* on his behalf with his wealth. A woman came to the Prophet (ﷺ) and asked:

   > “My father has come under Allaah's obligation of performing *Hajj,* but he is a very old man and cannot sit properly on his mount. Shall I perform Hajj on his behalf?”

   The Prophet (ﷺ) responded:

[5] Reported in *Sunan Abu Dawood*, *hadeeth* no. 334, and authenticated by Shaykh al-Albaani.
[6] Part of a *hadeeth* reported in Sunan Abu Dawood, *hadeeth* no. 922

"Yes, perform Hajj on his behalf."[7]

This is another ease.

6. Concerning those upon whom it is binding to spend, Allaah (ﷻ) said (in the translation of the meaning):

   ﴾Let the rich man spend according to his means, and the man whose resources are restricted, let him spend according to what Allaah has given him.﴿ Surah at-Talaq (65:7)

Therefore, there is no hardship in origin in this *deen*; all of it is ease, *al-hamdulillaah*. As to the previous legislations, there were hardships in some matters. Allaah (ﷻ) said describing the Prophet (ﷺ) (in the translation of the meaning):

﴾He releases them from their heavy burdens and from the fetters (bindings) that were upon them.﴿ Surah al-A'raf (7:157)

Reconciling Different *Fatawa* Regarding the Same Issue

Under this foundation, there is a branch of particular importance. One may seek a *fatwa* from two reliable and fit *'ulama* (scholars) yet receive two different rulings. If the scholars are equal in knowledge as well as in *deen*, then the *'ulama* have three sayings concerning this matter.

First, if the person was to take the more severe *fatwa*, then this is more precautionary and will free him of culpability.

Second, the person could take the more lenient *fatwa* as it is closer to the objectives of *sharee'ah* since, in origin, the person is free of responsibility; as such, we should not make matters binding on the slave of Allaah (ﷻ) unless it is certain that Allaah(ﷻ) did so.

Third, the scholars have said that the person has the choice due to the opposition of the causes. Our *Shaykh*, Muhammad ibn Saalih al-'Uthaimeen (*rahimahullaah*), said:

> "It is closer to me that he takes by that which is easier because this is closer to the essence of *sharee'ah*, except if one does not feel comfortable with that ruling. In this case, he takes by that which is more severe and satisfying."

This is in line with the *hadeeth* of the Prophet (ﷺ):

"Righteousness is that which the self feels satisfied and comfortable with and the same with the heart. The sin is that which wavers in the chest."[8]

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[7] Reported in *Saheeh al-Bukhaari* (vol. 3, book 29, *hadeeth* no. 79) and in *Saheeh Muslim* (*hadeeth* no. 1334).

[8] Reported in *Saheeh Muslim* (English translation no. 6195, book 32) and is *hadeeth* no. 27 from Nawawi's "*40 Hadeeth*"

Similarly, if the textual proofs appear in opposition to each other with one more difficult than the other, then take by that which is lighter since, in origin, ease is the essence of *sharee'ah*. Likewise, in origin, the self is free of responsibility.

Motivation to Perform the Acts of Worship

For all acts of worship, Allaah (ﷻ) associated causes that will help motivate the believer to perform them. For instance, the congregations for the five daily prayers, the day of *jumu'ah*, and the days of *'Eid* incite the believer to perform these acts. Similarly, the *nawafil* and the *Sunan* before the obligatory *salaah* form a prelude that helps us to condition ourselves (tune in) to do the *salaah*. Moreover, in Ramadan, fasting with others is much easier than fasting alone. Likewise, if someone prayed *taraweeh* by himself, he may see it as a burden and not complete it; however, it becomes easy in *jama'at* to the extent that one truly enjoys it. In addition, Allaah (ﷻ) has mentioned the merits of specific acts of worship such as walking to and returning from *salaah*. All of these matters will help make the believer eager to perform these acts.

Moreover, Allaah (ﷻ) has issued warnings and threats for abandoning the acts of worship and what punishments that entails. These help the person attain good while reminding him that he should not become lax in striving for that which is beneficial for him in this life and in the Hereafter.

Furthermore, through the legal excuses such as incapacitation, inability, the absence of certain criterion, or the presence of threats, Allaah (ﷻ) has created ways of helping us to attain that which is beneficial. For instance, the traveler is allowed to shorten the prayer, combine them if needed, not fast, as well as wipe on the leather socks or boots for three days and nights; moreover, all of the things that the traveler or the ill used to do when they were in residence or were healthy will still be written for them.

There are many other rulings Allaah (ﷻ) has made easy in general, including:

1. The pardoning regarding small amounts of *najis* (impure) blood.

2. The sufficiency of *istijmar* (i.e. removal of the traces of what comes out of the two exits of urine and feces with stomes) when water is not available for *istinja'* (cleaning the two exits with water).

3. The ease that cats are not filthy as the Prophet (ﷺ) mentioned, since they go around and around us.

4. The forgiveness regarding the mud in the streets since in origin it is *taahir* (pure) although we may expect it to be filthy.

5. The sufficiency of sprinkling water on the urine of the young boy who still suckles milk.

6. The pardoning concerning the vomiting of babies since vomit is not *najis*, as there is no evidence for its impurity.

7. The sufficiency of washing only the area of a garment where *najaasa* (impurity) is suspected if one is not sure of the filth's location.

8. The ease that if it is not possible to be sure when the *salaah* commences, then the believer works by that which is most likely, but if he later discovers that his conjecture was incorrect, then most of the scholars ask that he repeats his *salaah*.

9. In *Hajj*, the one who makes *tamat-tu'* and the *qiran* complete both *Hajj* and *Umrah* in one journey, instead of one travel for each. This is the reason why they are required to give *hadee* (a sacrifice) out of gratitude for this *ni'mah* (blessing).

Under this great foundation falls making the unlawful lawful. For instance, carrion can be eaten if there is no substitute available, and it would help the person to stay alive. Moreover, if someone chokes with nothing around him except wine or alcohol, then he may drink that which is sufficient to clear his throat and save himself from destruction. Furthermore, the offender's extended family must pay the *diyah* (blood money) when the person accidentally or intentionally kills someone; this indemnity is deferred for three years.

Conclusion

The third foundation in Imam 'Abd ar-Rahman ibn Naasir as-Sa'di's book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat -Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

> Hardship brings ease, and all the permits and dispensations of *sharee'ah* and the lessening in the degrees of rulings branch from this foundation.

The branches of this foundation are great and *In shaa'-Allaah* what has been presented is a sufficient clarification.

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection.

Saleh As-Saleh
28th Sha'baan 1427 A.H.
21st Sept. 2006 C.E.

Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah.

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

Foundation -4

By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)

Discussion based upon:

1-Sh. Ibn Sa'di's original explanation
2-Our Sh. Muhammad ibn Saalih Al-'Uthaimeen's Commentary, and
3-Full explanation by our Sh. (Dr.) Sami ibn Muhammad As-Sghair (summer 1427 A.H./2006 C.E.)

Prepared by
Saleh As-Saleh

Transcribed by
Br. Abu Abdullaah al-Amreeki, *Jazaahullaahu Khairan*,
from live duroos in Paltalk's "Understanding Islam 1" room.
Text edited by sis Umm Ahmad al-Kanadiyyah, *Jazaahaallaahu Khairan*.

بسم الله الرحمن الرحيم

Basic Rulings and Foundations of Fiqh-4

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection. This is a continuation of the explanation of *The Basic Rulings and Principles of Fiqh – The Beneficial, Eloquent Classifications and Differentiations* by Imam 'Abd ar-Rahman ibn Naasir as-Sa'di (*rahimahullaah*).

Foundation four is entitled:

> **Obligation is dependant upon ability. There is no obligation with inability, and nothing is forbidden with necessity.**

Evidence for Foundation 4

The evidence for this foundation is in the saying of Allaah (ﷻ : *subhaanallaahu wa ta'aalaa*) (in the translation of the meaning):

﴾So keep your duty to Allaah and fear Him as much as you can﴿
Surah at-Taghabun (64:16)

Also, from the *Sunnah* is the saying of the Prophet (ﷺ: *sallallaahu 'alayhi wa sallam*):

"And if I order you to do something, then do of it as much as you can."[1]

This foundation comprises two parts. The first part is:

There is no obligation with inability.

This is based upon the evidences already mentioned as well as the *hadeeth*:

"Pray standing, but if you cannot, then sitting, but if you cannot, then on your side."[2]

Categories Concerning Those Who Can Only Complete Part of an Obligation

If a person is only able to perform part of an obligation but not all of it, then either this portion is:

1. purely a means; in such situations, doing that portion of the obligation is not mandatory. For example, the one upon whom the shaving of the head is obligated and he is bald. It is not obligated to pass the blade over the bald head, since there is no hair and moving the blade is just a means. Moreover,

[1]Reported in *Saheeh al-Bukhaari* (English translation no. 392) and in *Saheeh Muslim*.
[2] Part of a *hadeeth* reported in *Sunan Abee Dawood*, *hadeeth* no. 922 and authenticated by Shaykh al-Albaani.

the dumb is unable to articulate properly so we do not command him to move his tongue because this is just a means. Also the walking to the Mosque to offer the congregational or Jumu'aah prayers. If someone is able to walk only part of the road but unable to walk the entire road. It is not obligated upon him to walk the distance he is able to since this is just a pure means.

2. obligated as being related to something else, either by way of precaution or perfection. For instance, in the case of precaution, many of the scholars are with the opinion that washing the elbow of the person whose arm was amputated at that point is precautionary in order to fulfill the condition that he washes his hand.[3] Similarly, staying in Mina follows for the one who stayed in ‘Arafah; it is not an obligation on its own but in relation to something else as part of perfection.

3. an act of worship but in itself is not a worship; in this case, it is not obligatory to do. An example of this is if a person is able to fast part of the day, then this is part of an act of worship, namely fasting; however, this is not a worship itself since the legal fasting is from dawn to sunset. As such, it is not obligated even if the person is able to do it.

4. part of a worship and itself is a worship; in this case, he does that which he is able to do, and that which he is unable to do is lifted. For instance, those who are unable to recite *al-Fatihah*, such as the dumb, must still stand during *salaah* since reciting and standing are independent obligations; therefore, it is required that he stands for a time equivalent to the recitation of *al-Fatihah*. Similarly, a person who is new to Islam and has only memorized two verses, recites these two verses for the amount of time required to complete the seven verses of *al-Fatihah* during *salaah*. Moreover, if someone finds sufficient water to clean some of his body, then he must use that water to wash these parts and make *tayammum* (dry ablution) for the rest.

These are the categories concerning those who are able to do only part of an obligation. These were classified according to partial and complete inability per the first part of this foundation.

Types of Forbiddances

This foundation’s second part is:

Nothing is forbidden with necessity.

The *Muharram* (forbiddance) is of two types.

First, if the forbiddance is due to the thing itself, then it does not become permissible, except in cases of necessity. Allaah (ﷻ) said (in the translation of the meaning):

﴾Forbidden to you (for food) are: *al-Maytatah* (the dead animals - cattle-beast not slaughtered), blood, the flesh of swine, and the meat of that which has been slaughtered as a sacrifice for others than Allaah, or has been slaughtered for

[3]Though the correct opinion is that the washing of the elbow is an obligation.

idols, etc., or on which Allaah's Name has not been mentioned while slaughtering, and that which has been killed by strangling, or by a violent blow, or by a headlong fall, or by the goring of horns - and that which has been (partly) eaten by a wild animal - unless you are able to slaughter it (before its death) and that which is sacrificed (slaughtered) on *An-Nusub* (stone altars). (Forbidden) also is to use arrows seeking luck or decision, (all) that is *Fisqun* (disobedience of Allaah and sin). This day, those who disbelieved have given up all hope of your religion, so fear them not, but fear Me. This day, I have perfected your religion for you, completed My Favor upon you, and have chosen for you Islam as your religion. But as for him who is forced by severe hunger, with no inclination to sin (such can eat these above-mentioned meats), then surely, Allaah is Oft-Forgiving, Most Merciful.﴾ Surah al-Ma'idah (5:3)

The point of evidence in this verse is His (ﷻ) saying (in the translation of the meaning), "**But as for him who is forced by severe hunger, with no inclination to sin (such can eat these above-mentioned meats), then surely, Allaah is Oft-Forgiving, Most Merciful.**"

In addition, Allaah (ﷻ) states (in the translation of the meaning):

﴿He has forbidden you only the *Maytatah* (dead animals), and blood, and the flesh of swine, and that which is slaughtered as a sacrifice for others than Allaah (or has been slaughtered for idols, etc., on which Allaah's Name has not been mentioned while slaughtering). But if one is forced by necessity without willful disobedience nor transgressing due limits, then there is no sin on him. Truly, Allaah is Oft-Forgiving, Most Merciful.﴾ Surah al-Baqarah (2:173)

Furthermore, Allaah (ﷻ) affirmed (in the translation of the meaning):

﴿And why should you not eat of that (meat) on which Allaah's Name has been pronounced (at the time of slaughtering the animal), while He has explained to you in detail what is forbidden to you, except under compulsion of necessity?﴾ Surah an-An'am (6:119)

However, such things are not permissible, except with the fulfilling of two conditions.

1. There exists no other alternative to ward off the necessity, except this one. If there is something else, then this condition is not met, and it would remain unlawful.

2. The necessity must actually be warded off, and there must truly be a benefit. If we are doubtful of its benefit, then it remains forbidden.

Examples:

1. If someone is so hungry that he is about to be destroyed, and there is a dead body, but he is still able to hunt, then the first condition that there must be no alternative is not fulfilled; as such, it is not permissible to eat the dead body.

2. Someone was told that if he drank wine or alcohol, then he would be cured of his illness. However, he should not drink it because there is uncertainty regarding his cure. It is possible that he may take it but receive no benefit. In fact, it is common that people use beneficial medicines but are not benefited. Moreover the ill may recover without using a medicine due to his sincere invocation of Allaah and having trust in Him. On the other hand, the textual evidence for the forbiddance of this means is the saying of the Prophet (ﷺ):

   "Allaah did not make your healing in what is forbidden."[4]

   And thus it is forbidden to seek treatment in what is unlawful as stated by the people of knowledge. It cannot be said that this constitutes a necessity as common people think. Therefore, this case does not fulfill the second condition.

3. A person who is choking has nothing available to drink, except alcohol. In this situation, it is permissible for him to drink only enough alcohol to clear his throat and save himself. This is because there is no other alternative, and the benefit is certain.

4. A thirsty person with nothing to drink except alcohol should not drink it because the second condition is not met since alcohol will only increase his thirst, and there will be no benefit.

5. An ill person was told to drink blood as cure; he should not take it as the benefit is uncertain.

Second, the forbiddance is due to the means, not the objective, in which cases the need makes it permissible. For example, silk is forbidden for men; however, if someone needs it as a cure for a skin illness like irritation and so forth, then it is permissible. Moreover, it is forbidden for a man to look at an unrelated woman as it is a means that leads to unlawful relations, not because it is the objective. This is why it is permissible when needed, such as looking at a woman when seeking her hand in marriage. Similarly, a witness, who wants to verify a particular woman in a specific case, may look at her face in order to give his testimony. The *tahreem* (forbiddance) here is due to it being a means and not the objective itself; thus, it is permissible when there is a need.

The Criteria of Importance for Expiations is the Time of Execution

This foundation also includes the ordered expiations. Expiations are of different ranks; if someone is unable complete the highest in rank, then he goes to the next in rank, and if he is unable to do that, then he goes to the next in rank and so on. For instance, concerning the expiation for having sexual intercourse with one’s wife while fasting during the day in Ramadan, it is ordered to free a slave first; if the person is

[4] Reported by Ahmad (159), *Musnad Abu Ya'laa* (no.6966), *Saheeh ibn Hibbaan* (no.1391), *Majma' az-Zawaa'id* (5/86: he said: the transmitters of Aby Ya'laa are the men of As-Saheeh except Hassaan bin Mukhaariq whom Ibn Hibbaan considered reliable). It has supporting narrations *in al-Kuna* by Ad-Doolaabi (2/38) and *Saheeh Muslim* (English translation no.4892).

unable to do that, then he should fast for 60 consecutive days; if he is unable to complete that, he should instead feed 60 poor people.

Example: At the time of the obligation of expiation, a man was rich. Then, he was negligent and became poor. In order to expiate, the man started fasting. Later, the man became rich again. There are two opinions on whether he returns to the first obligation of freeing the slave. The first opinion is that he must free him However, the correct opinion is that the expiation is based on the time of the execution.

This issue centers upon what is the criterion of interest, either the time of the expiation's obligation or the time of its execution. The criterion is the time of execution; this is what matters.

Additional Branches of this Foundation

1. Anyone who is unable to fulfill any of the conditions, pillars, or obligations of *salaah* has the requirements lifted, and he prays in accordance with his ability.

2. One who is physically unable to perform *Hajj* waits if he hopes to get better; otherwise, he delegates someone. In contrast, if he is financially unable, then there is nothing upon him. Allaah (ﷻ) said (in the translation of the meaning):

   ﴾There is no restriction on the blind, nor any restriction on the lame, nor any restriction on the sick﴿ Surah an-Nur (24:61)

   Similarly, concerning every act of worship that depends on sight or the sound and healthy functioning of the body such as *jihad*, ability is a condition. If one is unable then Allaah does not burden him to do that which he is incapable of doing. That is why the Prophet (ﷺ) said regarding those who see some *munkar* (evil):

   "Whoever among you sees an evil action, let him change it with his hand; if he cannot, then with his tongue; and if he cannot, then with his heart – and that is the weakest of faith."[5]

   On the other hand, with respect to spending and related matters including spending on one's wife, Allaah (ﷻ) said (in the translation of the meaning):

   ﴾Let the rich man spend according to his means, and the man whose resources are restricted, let him spend according to what Allaah has given him. Allaah puts no burden on any person beyond what He has given him. Allaah will grant after hardship, ease.﴿ Surah at-Talaq (65:7)

   Therefore, spending is according to ability, and the husband spends in accordance with his situation, either restricted or unrestricted. Moreover, the Prophet (ﷺ) said concerning the financial obligations:

   "Start with yourself and then those who are your dependents."[6]

[5] Reported in *Saheeh Muslim*, (English translation no. 79, book 1)

3. With respect to fasting, those who are continuously unable, like the elderly or those whose cure is unlikely, can break the fast and does expiation. In the case of an ill person whose cure is likely or for the traveler, then he can break the fast and makes up the days later.

4. This foundation includes the legal excuses for missing the congregational and Friday prayers.

5. Necessity makes it permissible in the state of *ihram* to perform the forbidden acts, but expiating is a must in this case as a compensation for missing them.

6. It is permissible to pray alone in your own line in the congregational prayer if the person does not find a place in the row in front of him. We know that the Prophet (ﷺ) said:

   "There is no salaah for the person who prays alone behind the row."[7]

   There are four ways presented on how to deal with coming to the congregational prayer and finding no place in the line. **First**, some recommend that you pray next to the *imam*; this is a weak opinion because the *imam* stands alone in his particular place as established by the *Sunnah*. Likewise, if another person comes, then he will stand next to the *imam* as well. Eventually, there may be an entire row with the *imam*.

   Second, he may pull back someone from the row in front of him to pray with him; this has many negative consequences. For instance, he will be moving a person from a preferred position with more merit to a lesser one. Moreover, this would create a gap, necessitating movement in the row from where he took the person. In addition, this may cause bad feelings in the heart of the person pulled since he was taken from his row.

   Third, the person could wait until someone else comes to join him. This waiting may take a significant amount of time, and the *salaah* may finish before anyone comes, resulting in him missing the congregational prayer.

   Fourth, being in a row is an obligation; however, this obligation drops in cases of inability. As such, he stands there and prays alone. If the obligation drops for matters greater than standing in the row alone, then by all means it is dropped in this case, and he can pray alone in the line. This is the strongest opinion.

7. If two people come to the congregational prayer and find a gap only large enough for one person, they can either fill the gap and complete the row, or pray together in a new row. *Shaykhul Islam* ibn Taymiyyah (*rahimahullah*) preferred the opinion that the two pray together because standing in a row is an obligation. while completing the row is a *Sunnah*, according to the majority of the scholars.

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[6] Part of a *hadeeth* reported in *Saheeh Muslim* (English translation no. 2183, book 5)

[7] Reported in *Musnad Ahmad*, *hadeeth* no. 15862 and *Sunan ibn Maajah*, *hadeeth* no. 1003. Shaykh al-Albaani authenticated it in *Saheeh ibn Maajah*.

8. If a man comes to the congregational prayer and finds the people in the row in front of him not close to each other as it should be in accordance with the *Sunnah*, then he may go over to the side of the row where this is occurring and lightly tap them on their back in order to make them cling closer to each other and then enter the row. Any disturbance caused in this situation is due to their negligence in forming the row loose.

Abuse of This Foundation

Many people abuse the verse (in the translation of the meaning):

﴾So keep your duty to Allaah and fear Him as much as you can﴿
Surah at-Taghabun (64:16)

They use it for abandonment of the obligation or doing only the minimum. In fact, this verse is an evidence for the obligation to act, but to the best of your ability. It is proof to do, not to abandon, as it is understood by many people.

The *Makrooh* (i.e. Detested or Disliked) is Permissible If Needed

The degree of the disliked is less than that of the *muharram* (forbidden). We are bound to abandon the *muharram*; if the person does it, he is accountable for punishment. However, the *makrooh* is forbidden by way of the preference of importance. The person that does the *makrooh* is not held accountable for punishment, and that is why it is permissible when needed.

The difference between a need and a necessity is similar to the difference between what is necessary and what is supplemental. Going without a necessity will lead to a person's destruction or harm his physical, financial, or religious state or his family and children; a need indicates a lack of something but does not reach the level of harm if it is missed. As such, the need is of a lesser degree than the necessity. For instance, a person requires two garments to ward off cold. If he uses one and is not harmed, then the second garment is considered a need. However, if we assume that without the second garment he would be destroyed, then it would become a necessity.

The status of things change; something may start off as a luxury, then become a need and later a necessity. Electricity when it was first introduced was a luxury; later it became a need, and now, it has become a necessity.

Examples of that which is disliked becoming permissible are:

1. Looking left or right during *salaah* is disliked. However, if it is needed as in the case of a child who you fear may fall or pick up something hot, then it is permissible.

2. Slight movements that are unrelated to the *salaah* are permissible, if needed. For instance, the Prophet (ﷺ) lifted Umaamah, the daughter of Zainab, while praying and put her down upon prostrating.

3. Someone performing a *naafil salaah* is called upon, and he is uncertain who called him. If the caller is his father or his mother, then he must answer them (assuming that the *salaah* is *naafil*), except if he knows that they will be content if he does not answer.

4. If a person performing *salaah* hears someone shouting, then his reaction is based on the situation. If it is a loud, intense yell, then it is a necessity, and he may turn to see what is happening; however, if it is less than that, then it is a need.

5. Eating onions is disliked for the one who is going to *salaah*. However, if he needs to do so, then it is permissible to eat and pray home instead.

Conclusion

The fourth foundation in Imam 'Abd ar-Rahman ibn Naasir as-Sa'di's book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat -Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

> **Obligation is dependant upon ability. There is no obligation with inability, and nothing is forbidden with necessity.**

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection.

Saleh As-Saleh
12th Ramadhan 1427 A.H
Oct. 5th 2006.

Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah.

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

Foundation -5

By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)

Discussion based upon:

1-Sh. Ibn Sa'di's original explanation
2-Our Sh. Muhammad ibn Saalih Al-'Uthaimeen's Commentary, and
3-Full explanation by our Sh. (Dr.) Sami ibn Muhammad As-Sghair (summer 1427 A.H./2006 C.E.)

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Text edited by sis Umm Ahmad al-Kanadiyyah, *Jazaahaallaahu Khairan*.

بسم الله الرحمن الرحيم

Basic Rulings and Foundations of Fiqh-5

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection. This is a continuation of the explanation of *The Basic Rulings and Principles of Fiqh – The Beneficial, Eloquent Classifications and Differentiations* by Imam 'Abd ar-Rahman ibn Naasir as-Sa'di (*rahimahullaah*).

Foundation five is entitled:

> **The *sharee'ah* is based upon two principles, sincerity to Allaah (ﷻ: *subhaanallaahu wa ta'aalaa*) the One who deserves to be worshipped Alone, and following the Messenger (ﷺ: *sallallaahu 'alayhi wa sallam*).**

Evidences for Foundation 5

These two principles constitute the conditions for every religious deed, whether it is apparent, such as the utterances of the tongue and the actions of the body parts, or it is from the inward actions of the heart. Allaah (ﷻ) said (in the translation of the meaning):

﴾Surely, the religion (i.e. the worship and the obedience) is for Allaah only.﴿
Surah az-Zumar (39:3)

Also, Allaah (ﷻ) stated (in the translation of the meaning):

﴾And they were commanded not, but that they should worship Allaah, and worship none but Him Alone﴿ Surah al-Baiyinah (98:5)

The meaning of this *deen* (religion) was defined and interpreted by the Prophet (ﷺ) in the *hadeeth* of Jibreel. It constitutes the five pillars of Islam and the six pillars of *eeman* (faith), as well as its realities, namely *al-ihsan* (benevolence), which is the basis of the actions of the heart. All of these matters must be sincere for Allaah (ﷻ) Alone, seeking His Face, Pleasure, and Reward. Similarly, all actions must be based upon the Book and authentic *Sunnah* of the Prophet (ﷺ). The Messenger (ﷺ) was trusted with teaching the means to make the *deen* upright and to have the acts of worship practiced correctly. Allaah (ﷻ) said concerning following the Messenger (ﷺ) (in the translation of the meaning):

﴾And whatsoever the Messenger (Muhammad ﷺ) gives you, take it, and whatsoever he forbids you, abstain (from it)﴿ Surah al-Hashr (59:7)

Combining both principles that constitute this fifth foundation, Allaah (ﷻ) stated (in the translation of the meaning):

﴾And who can be better in religion than one who submits his face (himself) to Allaah (i.e. follows Allaah's Religion of Islamic Monotheism); and he is a *Muhsin* (a good-doer)﴿ **Surah an-Nisa (4:125)**

The phrase, "**submits his face**," means that the person's inward and outward actions are for Allaah (ﷻ) Alone. Similarly, the "***Muhsin***" does the good deeds of Islam by following the Messenger (ﷺ). Thus, it serves as an evidence for both principles.

In many verses, we know that Allaah (ﷻ) commanded us to obey the Messenger (ﷺ). He (ﷻ) affirmed (in the translation of the meaning):

﴾And obey Allaah and the Messenger (Muhammad ﷺ)﴿
Surah al-Ma'idah (5:92)

The action that combines these two principles is accepted. If both are lacking or only one of them is present, then the action is rejected. If a person does a deed without sincerity, then there is *shirk*; if he acts without following the Messenger (ﷺ), then there is innovation. This falls under the saying of Allaah (ﷻ) (in the translation of the meaning):

﴾And We shall turn to whatever deeds they (disbelievers, polytheists, sinners, etc.) did, and We shall make such deeds as scattered floating particles of dust.﴿ **Surah al-Furqan (25:23)**

Therefore, if the deed does not include both of principles or even only one of them, then it is rejected.

Allaah (ﷻ) explained the difference between the deeds of the sincere doer and those of the one who shows off. He (ﷻ) affirmed (in the translation of the meaning):

﴾And the likeness of those who spend their wealth seeking Allaah's Pleasure while they in their ownselves are sure and certain that Allaah will reward them (for their spending in His Cause), is the likeness of a garden on a height; heavy rain falls on it and it doubles its yield of harvest.﴿ **Surah al-Baqarah (2:265)**

In comparison, He (ﷻ) said (in the translation of the meaning):

﴾And (also) those who spend of their substance to be seen of men, and believe not in Allaah and the Last Day [they are the friends of *Shaytaan* (Satan)], and whoever takes *Shaytaan* (Satan) as an intimate; then what a dreadful intimate he has!﴿ **Surah an-Nisa (4:38)**

Moreover, the Prophet (ﷺ) said concerning the emigration, which is one of the best of deeds:

"The reward of deeds depends upon the intention, and every person will get the reward according to what he has intended. So whoever emigrated for Allaah and His Messenger, then his emigration was for Allaah and His Messenger. And whoever

emigrated for worldly benefits or for a woman to marry, his emigration was for what he emigrated for."[1]

Thus, the sincere one's emigration was for Allaah (ﷻ) and His Messenger (ﷺ). Similarly, one of the companions asked the Messenger (ﷺ) about those who fight, enquiring:

"'A man may fight for the sake of booty, and another may fight so that he may be mentioned by the people, and a third may fight to show his position (i.e. bravery); which of these regarded as fighting in Allaah's Cause?' The Prophet said, *'He who fights so that Allaah's Word (i.e. Islam) should be superior, fights for Allaah's Cause.'"*[2]

Therefore, the person who intends by his verbal and practical *jihad* to give victory to the truth, then he is sincere for Allaah (ﷻ); whoever intends other than this will have that which he intended, and his actions will not be accepted. Concerning the deeds that are lacking, Allaah (ﷻ) said (in the translation of the meaning):

﴾Say (O Muhammad ﷺ): "Shall We tell you the greatest losers in respect of (their) deeds?" "Those whose efforts have been wasted in this life while they thought that they were acquiring good by their deeds!"﴿ Surah al-Kahf (18:103-104)

We seek refuge in Allaah (ﷻ) from this. Also, Allaah (ﷻ) affirmed:

﴾But if they answer you not (i.e. do not believe in your doctrine of Islamic Monotheism, nor follow you), then know that they only follow their own lusts. And who is more astray than one who follows his own lusts, without guidance from Allaah?﴿ Surah al-Qasas (28:50)

As such, the righteous deeds are done according to these two principles.

Types of Showing Off

If a person shows off in his worship, then this falls under four categories.

1. If showing off is the driving force behind doing the act of worship, then the worship is invalid. It is reported in the *hadeeth qudsi* that Allaah (ﷻ) said,

   "I am the One, One Who does not stand in need of a partner. If anyone does anything in which he associates anyone else with Me, I shall abandon him with one whom he associates with Allaah."[3]

2. If a person begins his worship sincerely and showing off occurs later at which point he tries to stop showing off, then his worship is valid. Otherwise, if he

[1] Reported in *Saheeh al-Bukhaari* (English translation vol. 1, *hadeeth* no. 51) and in *Saheeh Muslim* (English translation no. 4692, book 20)
[2] Reported in *Saheeh al-Bukhaari* (English translation vol. 4, *hadeeth* no. 355) and in *Saheeh Muslim* (English translation no. 4681, 4682, and 4687, book 20)
[3] Reported in *Saheeh Muslim*, (English translation no. 7114, book 42)

continues and does not attempt to ward it off, inclining towards it, then one examines whether the latter part of this worship depends on its earlier part or vice verse. For example, with *salaah* and *wudhu*, these worships would become invalid in this case.

On the other hand, if the worship is distinguished such that the parts are independent, then whatever occurred before showing off is valid, and whatever occurred after the person began to show off is invalid. For instance, a person gives $50 in charity sincerely. Later, he gives $500 to show off. His first donation is valid while the $500 are invalid.

3. If a person begins to show off after concluding the worship, then the worship is valid. However, this nullifies the reward for the worship. Allaah (ﷻ) said (in the translation of the meaning):

   ﴾O you who believe! Do not render in vain your *Sadaqah* (charity) by reminders of your generosity or by injury, like him who spends his wealth to be seen of men, and he does not believe in Allaah, nor in the Last Day. His likeness is the likeness of a smooth rock on which is a little dust; on it falls heavy rain which leaves it bare. They are not able to do anything with what they have earned. And Allaah does not guide the disbelieving people.﴿ Surah al-Baqarah (2:264)

4. The showing off is in the descriptive manner of the worship, not its origin. As such, the person initiates the action for the sake of Allaah (ﷻ) but shows off in its description. For instance, someone begins his *salaah* sincerely, but he hears someone come, at which point he begins to perfect his *salaah* more than normal. In this situation, all of that which he added to the sincere part of the *salaah* will have no reward.

The Distinction between the Inward and Outward Acts

The actions that the person does for Allaah (ﷻ) but they lack sincerity or are not in accordance with the *sharee'ah* are invalid. Similarly, the creeds that oppose the Book and the *Sunnah* of the Prophet (ﷺ), such as the creed of *ahl al-bid'ah* (the people of innovation) fall under the saying of the Prophet (ﷺ):

"The reward of deeds depends upon the intention, and every person will get the reward according to what he has intended."[4]

Secondly, they fall under the saying of the Prophet (ﷺ):

"Whoever does any action that is not in accordance with this matter of ours (i.e., Islam) will have it rejected."[5]

[4] Reported in *Saheeh al-Bukhaari* (English translation vol. 1, no. 51) and in *Saheeh Muslim* (English translation no. 4692, book 20)

[5] Agreed upon. Reported in *Saheeh al-Bukhaari* (English translation vol. 3, no. 861) and in *Saheeh Muslim* (English translation no. 4266, book 18)

The first *hadeeth* on the intentions is the scale for the inward deeds while the latter is the scale for the outward deeds.

The Nature of Sincerity

Sincerity to Allaah (ﷻ) regarding everything is what came in the textual proofs in the Qur'aan and *Sunnah*, both of which mention its merits and fruits as well as the nullification of the deeds that lack it. Sincerity is much more difficult to achieve than simple following. Some of the *Salaf* (*rahimahumullaah*) said,

"I did not exert a stronger effort on myself than I exerted on sincerity."

You may find two people next to each other performing *salaah*. They both appear to be in a state of tranquility, praying correctly. However, with respect to their intention and sincerity, they could be as far apart as the East and West. If the person achieves sincerity, then following the Prophet (ﷺ) is easier.

Types of Intention

With respect to the intention, it is of two types. They are:

1. Intention of the deed itself - This involves a person intending to do some specific deed. For instance, one makes the intention that a particular *salaah* is *dhuhr*, not *'asr*. This will differentiate the deeds, for example between *fard* and *sunnah*.

2. Intention for the One to whom the action is done - This entails seeking Allaah (ﷻ) in one's action.

Transactions

These two principles render matters either legally acceptable or illegal. It covers not only worship, but also transactions, such as trade, rent, etc. If the parties involved agree upon something but the transaction is illegal, then their agreement is invalid and forbidden. No consideration is paid to their acceptance, since acceptance comes only after having the deed accepted by Allaah (ﷻ) and His Messenger (ﷺ).

Example: Two people agree to a transaction involving usury where one party was lent $1000 with a 5% increment. This is forbidden because if acceptance was made the criterion, then the two who committed adultery will also say they accepted the illegal sexual intercourse.

The matter of legalization is based upon the *sharee'ah*, not the agreement or acceptance of the parties involved.

Additional Branches of this foundation include:

1. With respect to donations, gifts, or bequeaths, they must all follow the *sharee'ah*, without preference.

2. The conditions put on endowments must not in any way oppose the *sharee'ah*. If they do, then they are to be cancelled.

3. The determining criterion for conditions is the saying of the Prophet (ﷺ):

   "The Muslims are bound by the conditions they set between themselves, except a condition which makes the halaal(legal) haraam forbidden) or the haraam(forbidden) halaal (legal)."[6]

4. All of that which is associated with marriage, including its pillars, conditions, what is lawful in it, what is unlawful in it, irrevocable/revocable divorce, etc., must be in accordance with the legal way, or it is to be rejected.

5. When a person makes an oath, then he does so by Allaah (ﷻ), One of His Attributes, or One of His Names. With respect to breaking oaths, the Prophet (ﷺ) said:

   "Whoever makes an oath and then finds other than that to be better, then let him do that which is better and expiate his oath."[7]

6. If you make a vow to obey Allaah (ﷻ), then you must obey Him, and if you make a vow not to disobey Allaah (ﷻ), then you must not disobey him.

7. Judicial matters, proofs, evidences as well as that which is related to them are all based on the *sharee'ah*. Allaah (ﷻ) stated:

   ﴾But no, by your Lord, they can have no Faith, until they make you (O Muhammad ﷺ) judge in all disputes between them, and find in themselves no resistance against your decisions, and accept (them) with full submission.﴿ Surah an-Nisa (4:65)

   Also, Allaah (ﷻ) said:

   ﴾O you who believe! Obey Allaah and obey the Messenger (Muhammad ﷺ), and those of you (Muslims) who are in authority. (And) if you differ in anything amongst yourselves, refer it to Allaah and His Messenger (ﷺ), if you believe in Allaah and in the Last Day. That is better and more suitable for final determination.﴿ Surah an-Nisa (4:59)

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[6] Reported in At-Tirmithee (no. 1352) and others, and At-Tirmithee graded is it as good-authentic. It was also authenticated by Ibn Hibbaan (see *Buloogh al-Maraam*, no. 257). The *hadeeth* is reported from several chains of transmission none of them is free from weakness, but taken together, the transmissions support and strengthen each other (Ibn Taymeeyah in *al-Fataawa* 29/147). The same conclusion was reached by Ibn Al-'Arabi, as in *'Aaridat al-Ahwadhee* (3/323). Ibn al-Qayyim also considered it as *Saheeh* (*al-Furoosiyaah*, p. 164). Al-Albaani graded it as "*hasan* (good)" due to the same reason (i.e. chains supporting each other) as in *At-Ta'leeqaat Ar-Radiyyah* 2/174.

[7] Reported in *Saheeh Muslim*, (English translation no. 4052, 4053, 4054, 4058, & 4062, book 15)

The Types of References in *Fiqh*

The *fiqh* itself from its beginning till its end is not an exception to this foundation. Rather, the rulings are taken from four references; they are:

1. The *Book*
2. The authentic *Sunnah*
3. *Ijmaa'* (consensus)
4. Analogy

The Book and the *Sunnah* are the origins; the *ijmaa'* depends upon them, and analogy is deducted from them. As such, nothing exists, except that it falls under this great foundation.

Conclusion

The fifth foundation in Imam 'Abd ar-Rahman ibn Naasir as-Sa'di's book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

> **The *sharee'ah* is based upon two principles, sincerity to Allaah (ﷻ) the One who deserves to be worshipped Alone, and following the Messenger (ﷺ).**

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection.

Saleh As-Saleh
13th Ramadhaan 1427 A.H.
Oct. 6, 2006.

*Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah***.**

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

Foundation -6

By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)

Discussion based upon:

1-Sh. Ibn Sa'di's original explanation
2-Our Sh. Muhammad ibn Saalih Al-'Uthaimeen's Commentary, and
3-Full explanation by our Sh. (Dr.) Sami ibn Muhammad As-Sghair (summer 1427 A.H./2006 C.E.)

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Br. Abu Abdullaah al-Amreeki, *Jazaahullaahu Khairan*,
from live duroos in Paltalk's "Understanding Islam 1" room.
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بسم الله الرحمن الرحيم

Basic Rulings and Foundations of Fiqh-6

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection. This is a continuation of the explanation of *The Basic Rulings and Principles of Fiqh–The Beneficial, Eloquent Classifications and Differentiations* by Imam 'Abd ar-Rahman ibn Naasir as-Sa'di (*rahimahullaah*).

Foundation six is entitled:

> **The initial condition (*al-Asl*) concerning worship is prohibition; nothing is permitted except that which Allaah (ﷻ: *subhaanallaahu wa ta'aalaa*) and His Messenger (ﷺ: *sallallaahu 'alayhi wa sallam*) legislated. The initial condition concerning transactions and traditions is permissibility, except that which Allaah (ﷻ) and His Messenger (ﷺ) made forbidden.**

Evidences for Foundation 6

This foundation comprises two great principles; Imam Ahmad (*rahimahullaah*) along with others from the imams, mentioned them. They are based upon evidences from the Qur'aan and *Sunnah*. Concerning the first part of this foundation that acts of worship are forbidden except that which Allaah (ﷻ) and (or) His Messenger (ﷺ) legislated, an evidence is His (ﷻ) saying (in the translation of the meaning):

﴾Or have they partners with Allaah (false gods), who have instituted for them a religion which Allaah has not allowed.﴿ Surah ash-Shura (42:21)

Also, Allaah (ﷻ) commanded that He (ﷻ) be worshiped alone in many places in the Qur'aan, including the verse (in the translation of the meaning):

﴾And the mosques are for Allaah (Alone), so invoke not anyone along with Allaah.﴿
Surah al-Jinn (72:18)

It is also established in the *Sunnah* that the Prophet (ﷺ) said:

"Whoever does any action that is not in accordance with this matter of ours (Islam) will have it rejected."[1]

In another narration, it is reported that he (ﷺ) said:

'Whoever innovates anything in this matter of ours (Islam) that is not a part of it, will have it rejected"[2]

[1] Reported in *Saheeh Muslim*, (English translation no. 4267, book 18)

Thus, in principle, all acts of worships are forbidden except if there is proof for their permissibility. The explanation of this is that a worship is a command, either it is an obligation or praiseworthy. Every *waajib* (obligation) that Allaah (ﷻ) or His Messenger (ﷺ) obligated or every act that is *mustahabb* (recommended) is worship. Anyone who obligates or recommends a worship, which has no proof in the Qur'aan nor *Sunnah*, innovates in the *deen* (religion) that which Allaah (ﷻ) did not permit; therefore, it will be rejected.

With regard to the second part of this foundation that nothing is forbidden from habits, traditions, and transactions except that which Allaah (ﷻ) and (or) His Messenger (ﷺ) prohibited, an evidence for it is in the statement of Allaah (ﷻ) (in the translation of the meaning):

﴾He it is Who created for you all that is on earth.﴿
Surah al-Baqarah (2:29)

This includes that all that which is beneficial, and everything is beneficial except that which The Legislator has made forbidden due to its harm. Moreover, Allaah (ﷻ) affirmed (in the translation of the meaning):

﴾And has subjected to you all that is in the heavens and all that is in the earth﴿
Surah al-Jathiyah (45:13)

Furthermore, the Prophet (ﷺ) said:

"Whatever He was silent about is permissible."[3]

In addition, Allaah (ﷻ) stated (in the translation of the meaning):

﴾Say (O Muhammad ﷺ): "Who has forbidden the adoration with clothes given by Allaah, which He has produced for his slaves, and *At-Taiyibaat* [all kinds of *Halaal* (lawful) things] of food?" Say: "They are, in the life of this world, for those who believe, (and) exclusively for them (believers) on the Day of Resurrection (the disbelievers will not share them)."﴿ Surah al-A'raf (7:32)

Therefore, Allaah (ﷻ) denounced forbidding what He (ﷻ) created for His slaves from food, drinks, clothing, and what is related to that.

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[2] Reported in *Saheeh al-Bukhaari* (English translation vol. 3, *hadeeth* no. 861) and in *Saheeh Muslim* (English translation no. 4266, book 18)

[3] Reported from Abu al-Darda' (رضي الله عنه) by al-Daaraqutni in his *Sunan* (2/137), al-Haakim in *al-Mustadarak* (2/406 and 10/12), at-Tabaraani in *Musnad al-Shaamiyeen*. Concerning this *isnaad* (chain of transmission), Imam al-Dhahabi said it is "interrupted." It is also narrated through another *isnaad* from Salman al-Faarisi (رضي الله عنه) by at-Tirmithee in his *Sunan* (*hadeeth* no. 1726), ibn Maajah (*hadeeth* no. 3367), al-Haakim (4/129), al-Bayhaqi in *al-Kubra* (9/320 and 10/12), and at-Tabaraani in *al-Kabeer* (6/50). Regarding this *isnaad*, al-Albaani said it is very weak in *al-Ta'leeqaat al-Radiyyah* (3/54). The *hadeeth* is reported from several chains of transmission none of them is free from weakness, but taken together, the transmissions support and strengthen each other. For this reason, an-Nawawi classed it as "good" in *al-Adhkaar* (505); it was classified as *saheeh* by ibn al-Qayyim in *I'laam al-Muwaqqi'een* and by ibn Kathir in his *Tafsir* (1/405). Al-Albaani said it was "good" in *Tahqeeq al-Emaan li ibn Taymiyyah* (43) for the same reason.

Types of Innovation in Worship

Innovation in worship is of two types. **First,** the innovation may entail performing a worship whose kind has no legal basis. For example, celebrating the Prophet's (ﷺ) birthday is taken as a worship, while there is no legal basis for it.

Second, the innovation may be through adding a certain description to a legal worship, without a legal proof. For example, someone chooses to make *sujood* three times during *salaah* as means of nearness to Allaah (ﷻ); however, we know that the legal prostration is only twice. The third *sujood* is an addition in the description of the worship. The *salaah*, in principle, is a legal worship, but he added a description to it not approved by *sharee'ah*. Moreover, if instead of saying *Subhan Allaah*, *al-Hamdulillaah*, and *Allaah Akbar* thirty-three times each following the *salaah*, a person decides to say them each thirty-five times; this entails innovating in the description of the worship.

Conditions That Must be Fulfilled for an Act of Worship to be in Accordance with the *Sharee'ah*

A worship that follows the Prophet (ﷺ) and the *sharee'ah* fulfills six matters; if the act does not agree with any of these six criteria, then it is invalid and rejected, as it is an innovation in religion.

First, the worship must follow the *sharee'ah* in cause. If someone performs a worship due to a cause that Allaah (ﷻ) did not legislate, for example when a person enters his house he offers two *rakat* and makes this a *Sunnah*, then this is in opposition to the *sharee'ah*. Similarly, if a person makes a celebration for the victory of the Muslims at the Battle of Badr, then there is no legal cause since Allaah (ﷻ) and His Messenger (ﷺ) did not legislate a basis for that.

Second, the action must be in agreement with the *sharee'ah* in kind. If someone worships Allaah in a way the kind of which is not legalized, then it will be rejected. For instance, if a person offers a horse as a sacrificial animal instead of cattle on the day of sacrifice, then this would not be acceptable since it opposes the *sharee'ah* in kind. However, if he slaughters a horse and gives its meat in charity, then this is permissible because he did not take slaughtering as a means of nearness to Allaah (ﷻ) but to give its meat in charity.

Third, the action must be in accordance with *sharee'ah* in its extent. If someone worships Allaah (ﷻ) to an extent not legalized by *sharee'ah*, such as washing each part four times during *wudhu*, then this is not acceptable since it goes beyond the extent established.

Fourth, the action must agree with the *sharee'ah* in the manner. If someone takes an act as worship but its manner opposes the *sharee'ah*, then it will not be accepted from him. For example, if a person makes *sujood* before *rukoo*, then his *salaah* is invalid as it is not in agreement with the *sharee'ah* in manner. Moreover, if someone began making *wudhu* by washing his feet first and washed his head last, then this is also rejected.

Fifth, the worship must be in accordance with *sharee'ah* in time. For instance, if a person prays the prescribed prayer before its time, then it is rejected. Similarly, if someone offers the sacrifice before the *'Eid* prayer, it is also not acceptable.

Sixth, the worship must be in agreement with the *sharee'ah* in place. For example, a person makes *'itikaaf* at city hall, his school, or in his home; this is invalid as *'itikaaf* must be in the *masjid*.

Examples:

1. Someone trades after the second *adhan* on the day of *Jumu'ah*, and the prayer of *Jumu'ah* is binding upon him. His trade contracts made during this time are invalid as they are not in accordance with the legal time of trade.

2. Someone sells an ounce of gold for an ounce and a half. This sale is invalid since it is not the proper extent. The Prophet (ﷺ) said:

   "Do not sell gold for gold unless equal in weight."[4]

Types of Newly Invented Worldly Matters

Transactions, manners, and habits, such as eating, drinking, clothing, work, business, traditions, etc., are all, in principle, permissible. Anyone who forbids anything that neither Allaah (ﷻ) nor His Prophet (ﷺ) prohibited is an innovator, just as some of the *mushrikeen* (plural of *mushrik*) forbade some of the cattle that Allaah (ﷻ) and His Messenger (ﷺ) made allowable.

Due to ignorance, some want to make certain kinds of clothes, manufactures, or newly invented, worldly matters forbidden without a proof; anyone who follows this way is misguided. The newly invented world matters fall into the falling categories:

1. Purely good – An example of this type is watches.

2. Purely evil – An example of such things is musical instruments.

3. A combination of both good and evil – Most newly invented worldly matters are of this type. The list of such things is great and includes: tape recorders, computers, mobile phones, etc. The ruling concerning them is in accordance with their utilization. If they are used in good, then they are good; if they are used in evil, then they are evil.

   With regard to selling such things of the combined type, the ruling depends on the situation. If you are certain that its usage is *haraam* or that is more likely, then it is forbidden for you to sell it. For instance, if someone is known for listening to music, then you should not sell that which will aid him in this *haraam* action. However, if you do not know how the item will be used but

[4]Reported in *Saheeh al-Bukhaari* (English translation vol. 3, *hadeeth* no. 383, 384, and 385) and in *Saheeh Muslim* (English translation no. 3848, book 10)

most likely the person will not use it in *haraam*, then the principle is permissibility.

Categories of Harm from the Forbidden Matters

It should be known that Allaah (ﷻ) did not make something forbidden except that it is harmful to us. Anyone who engages in the forbidden matters will find that it covers four categories of harm.

1. Harm to the heart – This includes music as it sprouts hypocrisy in the heart.

2. Physical harm – Examples of things that would cause such harm are drugs and alcohol.

3. Religious harm – An example of this are all forms of *bid'ah* (innovations)

4. Worldly harm – This includes *riba* (usury) and the like.

That is why it is from amongst the greatest favors of Allaah (ﷻ) that He (ﷻ) made such things forbidden.

Conclusion

The sixth foundation in Imam 'Abd ar-Rahman ibn Naasir as-Sa'di's book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

> **The fundamental principle concerning worship is prohibition; nothing is permitted except that which Allaah (ﷻ) and His Messenger (ﷺ) legislated. The fundamental principle concerning transactions and traditions is permissibility, except that which Allaah (ﷻ) and His Messenger (ﷺ) made forbidden.**

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection.

Saleh As-Saleh
18th Shawwaal 1427 AH
Nov.9th 2006.

*Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah***.**

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

Foundations 7

By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)

Discussion based upon:

1-Sh. Ibn Sa'di's original explanation
2-Our Sh. Muhammad ibn Saalih Al-'Uthaimeen's Commentary, and
3-Full explanation by our Sh. (Dr.) Sami ibn Muhammad As-Sghair (summer 1427 A.H./2006 C.E.)

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بسم الله الرحمن الرحيم

Basic Rulings and Foundations of Fiqh-7

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection. This is a continuation of the explanation of *The Basic Rulings and Principles of Fiqh – The Beneficial, Eloquent Classifications and Differentiations* by Imam ‘Abd ar-Rahman ibn Naasir as-Sa’di (*rahimahullaah*).

Foundation seven is entitled:

> ***Takleef* (legal maturity) is a condition for the obligation of acts of worship, and *tamyeez* (the age of distinction) is a condition for the validity of acts of worship, except for Hajj and Umrah, which are valid from someone who is not *mumayez* (one who has not reached the age of distinction, i.e. a child). In transactions, *rushd* (maturity of intellect, rectitude of actions, and good management of affairs) is a condition. In donations, possession is a condition.**

This *qaeda* (foundation) comprises the conditions for the obligation of the physical acts of worship; the acts of worship pertaining to finances do not fall under this obligation.

Takleef

Takleef is comprised of two parts, namely *al-bulough* (attainment of the age of puberty) and *al-‘aql* (maturity of intellect, sanity).

Takleef is a condition since it is known that for an act of worship to be accepted, there must be proper intention. Intention is not something that can be imagined from neither someone who is *majnoon* (insane) nor someone who is below the age of distinction. Therefore, it is clear why *takleef* is a condition for the physical acts of worship. This is a great mercy from Allaah (ﷻ: *subhaanallaahu wa ta’aalaa*) upon His slaves, as He (ﷻ) only makes them legally responsible at the age of puberty and maturity of intellect.

Validity of the Acts of Worship

With respect to acts of worship done by someone who has the ability to distinguish, then the condition of validity has been fulfilled; thus, such acts of worship are valid from him. However, if the acts are done by someone who is unable to distinguish, then they are not valid, except in the case of a child performing Hajj or Umrah. Regarding Hajj and Umrah, there is a textual proof that exempts the child, specifically the *hadeeth* from Ibn ‘Abbas (ﷺ: *radiyallaahu ‘anhu*) who reported:

"A woman lifted up her child and said: 'O Messenger of Allaah, would the child be credited with having performed the Hajj?' Thereupon he said*: 'Yes, and there would be a reward for you.'*"[1]

This ruling regarding the validity of Hajj and Umrah for the child is not applicable to the insane for two reasons. First, the cited evidence only applies to the child. Second, although the child has not yet reached the age of distinction, it is anticipated his intellect will develop later. As for the insane, that is not anticipated, so his condition stays as it was in terms of the ruling.

Requirements on the Child Performing Hajj or Umrah

When the child does Hajj or Umrah, his *wali* (guardian) will do that which he is unable to do himself. In some instances, the child's presence at specific places or during certain times is required. In other cases, his presence is not a condition. Examples of actions the *wali* must do in the presence of the child include *tawaaf* (circulating the *ka'aba*) and *as-sa'ee* between Safa and Marwah.

Instances where the *wali* can do the rituals of Hajj or Umrah on behalf of the child in his absence include, *ramul-jmar* (casting of the pebbles). The presence of the child is not conditional in this case. Even the presence of those other than the child is not required if they are legally fit to designate others to perform these acts.

Acts that the child must do himself include *al-waqoofu bi 'Arafaah* (staying in 'Arafaah) as well as spending the night in Muzdalifah.

Regarding the intention of the guardian, he only intends to assume *ihraam* on behalf of the child and enter the ritual; he cannot intend to make Hajj or Umrah on the child's behalf. There is a distinction between the two. If the *wali* intends to perform Hajj on the child's behalf, he will be a full delegate, and this is not the case. Entering *ihraam* on behalf of the child is sufficient.

Rulings Regarding the Acts of Worship for the Insane

With respect to the one who is insane, the physical acts of worship are not obligated upon him. Similarly, the physical acts of worship are not valid from him because he does not have the mental capacity for intention.

Rulings Regarding the Acts of Worship for the Child who has Reached the Age of Distinction

Concerning the child who has reached the age of distinction (i.e. *tamyeez*), he is to be commanded to perform those acts of worship which he is able do, even though they are not obligated upon him. This is done in order to teach him to abide by the rulings and to train him, enabling him to become accustomed to these acts of worship. These instructions to perform the acts of worship will prepare him for the legal and moral responsibility when he reaches puberty, allowing his affair to be easy and so he will, by the Permission of Allaah (ﷻ), continue on what he was established upon

[1] Reported in *Saheeh Muslim* (English translation no. 3091, 3092, and 3093, book 7)

The child should also be commanded to know what is *haraam* and what is *halaal*. This will further allow him to train himself on that.

Opinions Regarding what Constitutes a Child of Distinction

There are two opinions concerning what constitutes a child of distinction. **The first opinion** is held by most of the scholars and classifies the child of distinction as one who has reached the age of seven.

The second opinion is that the child of distinction is the one who understands when he is addressed and can respond appropriately. An example of this would be if someone knocks at the door asking if his father is home, the child understands what that means and responds correctly. And generally this develops around the age of seven.

Financial Acts of Worship

The previous sections discussed the conditions for the physical acts of worship. For example, there is an exemption from acts of worship relating to *takleef*. However, the financial acts of worship, such as *zakaah* and the obligatory spending are required for all, including the elderly, the child, the sane and the insane; this is due to the fact that the proofs relating to this matter are general. Therefore, if someone who is insane has wealth, *zakaah* is due on it. Similarly, a child can inherit even if he has not reached the level of distinction. In addition, if that child has a poor mother or father, he must spend on them from his wealth.

Opinions Regarding Expiations from Children

There is a difference of opinion regarding the obligation of the *kafaarah* (expiation) from children; this is related to the ruling regarding the *kafaarah* itself. One opinion is that the *kafaaraat* (expiations) are from the stipulated rulings. Therefore, since they are stipulative in nature, they cover all, including the child, elderly, etc.

The other opinion is that the expiations are from *al-ahkam al-takleefiyyah* (the rulings that are dependent upon *takleef*). As such, those who take by this opinion assert that the expiations are not required from the child. This is stronger opinion because the *kafaarah* are meant to be a shielding from sins, and we know the child has no sins.

Example: If a child was able to take his father's car and struck a man with it, killing him, then it is clear that the blood money is obligated, either from the child or his relatives. However, the requirement of expiation depends upon the two opinions regarding the nature of expiations. If the *kafaarah* are considered to be from the stipulated rulings, then the expiation is required from the child. However, if you take from the other opinion that the *kafaarah* are *takleef* dependent, then there is no expiation, and this is the closer opinion.

Attainment of the Age of Puberty

A child's attainment of the age of puberty is determined in multiple ways. First, one has reached the age of puberty if semen is excreted while awake or asleep. The

second indication is completion of fifteen years of age. Third, a child has attained puberty if pubic hair grows on the body. These three are common to boys and girls. There is an additional sign of puberty specific to females, which is menstruation.

Transactions

Before one is qualified to engage in financial transactions, the person must fulfill three conditions, namely he must be *baaligh* (post-pubescent), sane, and have good management of affairs. These three conditions are known as *rushd*. Regarding *rushd*, Allaah (ﷻ) says (in the translation of the meaning):

﴾And try orphans (as regards their intelligence) until they reach the age of marriage; if then you find sound judgment (*rushd*) in them, release their property to them﴿ Surah an-Nisa' (4:6)

Therefore, the orphans must reach the age of puberty and have sound judgment before their wealth can be turned over. If the guardian doubts the orphan's judgment, he should test whether the orphan is able to handle affairs properly. For instance, the *wali* could give the orphan a portion of his wealth. If out of ten transactions the orphan does well in eight and fails in two, this shows sound judgment. As such, the guardian should give the orphan his property.

Thus, puberty, maturity of intellect, and good management of affairs constitute the condition for the validity of transactions. If one is missing, then the transaction becomes invalid and is not to be executed.

The scholars exempted the requirement of *rushd* for financial transactions in one case, specifically *al-waseeyah* (bequeaths); they said bequeaths are valid from a child. This is because there is no harm upon the child in the case of bequeaths, as the *waseeyah* is executed after death. This is not the case if the child makes a *waqf* (endowment), since the execution of the endowment is immediate.

Example: If a child bequeaths $100,000 to be executed after his death and he needs money later in his life, then he can take from this wealth as bequeaths can be retracted. This does not apply in the case of a *waqf*.

Rulings Regarding Donations and Spending the Wealth of the Orphan

Donations entail exerting wealth, not seeking a return. Examples of donations include: granting something to someone, charity, an endowment, freeing a slave, etc. In addition to maturity of intellect, attainment of puberty, and sound judgment, the donor must possess the wealth, in order for his donation to be valid.

Similarly, the donation from the one that is in charge of an endowment or the guardian of the wealth of the orphan is invalid because they do not possess this money; they are merely guardians of something that belongs to other than them. We know from the textual proof where Allaah (ﷻ) stated (in the translation of the meaning):

﴾And come not near to the orphan's property, except to improve it﴿
Surah an-An'am (6:152)

Therefore, one can only improve the orphan's wealth and make it more beneficial. As such, specific situations arise when dealing with the wealth of the orphan:

First, if there exists a business that is good and one that is better, than the guardian must use the orphan's wealth in the business that is better.

Second, if the guardian knows that a transaction is a losing one, it is forbidden to engage the wealth of the orphan in it.

Third, if the guardian is wavering on a specific transaction (i.e. he is not sure if it will improve the wealth or not), it is forbidden to engage the orphan's wealth since preserving the wealth is the safest course of action.

Fourth, if a transaction will most likely improve the wealth of the orphan, then he may engage in it.

Conclusion:

The seventh foundation in Imam 'Abd ar-Rahman ibn Naasir as-Sa'di's book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

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Saleh As-Slaeh
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